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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **ARB.P. 961/2023**

PRAVEEN JAIN

..... Petitioner

Through: Mr. Abdhesh Chaudhary, Mr. Nishi Kant Singh and Mr. Vinayak Mishra, Advocates.

versus

M/S KAMAKHYA OIL COMPANY & ORS.

..... Respondents

Through: Mr. Deepak Dhingra and Ms. Sneh Somani, Advocates.

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

11.01.2024

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By way of the present petition under section 11 of the Arbitration & Conciliation Act 1996 ('A&C Act'), the petitioner seeks appointment of a Sole Arbitrator to adjudicate upon the disputes that are stated to have arisen with the respondents from Deed of Admission-cum-Reconstitution of Partnership Firm dated 11.04.2017 ('Partnership Deed').

2. Notice on this petition was issued on 19.09.2023.
3. Mr. Abdhesh Chaudhary, learned counsel for the petitioner has drawn the attention of this court to clause 17 of the Partnership Deed which



comprises the arbitration agreement; and contemplates reference of disputes between the parties to arbitration in accordance with the A&C Act.

4. For completeness, it may be recorded that a separate territorial jurisdiction provision is also contained in clause 18 of the Partnership Deed, which subjects the contract between the parties to the jurisdiction of competent courts at Delhi.
5. As per the record, the petitioner invoked arbitration *vide* Notice dated 07.07.2023; and it transpires that respondent No. 2 responded to the said notice *vide* reply dated 09.08.2023 unilaterally appointing a Sole Arbitrator. However, the petitioner has objected to such unilateral appointment *vide* his reply dated 14.08.2023.
6. Upon a conspectus of the averments contained in the petition, the stand taken by the respondents, and the submissions made, this court is satisfied that there is a valid and subsisting arbitration agreement between the parties; that this court has territorial jurisdiction to entertain and decide the present petition; and also that the disputes that are stated to have arisen between the parties, as set-out *inter-alia* in invocation notice dated 07.07.2023, do not appear *ex-facie* to be non-arbitrable.
7. In the above circumstances, learned counsel for the parties now jointly request that this court may appoint a Sole Arbitrator; and then refer the matter for arbitration under the aegis of the Delhi International Arbitration Centre, New Delhi ('DIAC'), keeping all their respective factual and legal contentions open.



8. Accordingly, the present petition is allowed and Hon'ble Mr. Justice Najmi Waziri, former Judge, Delhi High Court (Cellphone No.: +91 9810097311) is appointed as the learned Sole Arbitrator to adjudicate upon the disputes between the parties; with arbitration proceedings to be conducted under the aegis of the DIAC, in accordance with applicable rules.
9. The learned Sole Arbitrator would furnish to the parties requisite disclosures as required under section 12 of the A&C Act; and in the event there is any impediment to the appointment on that count, the parties are given liberty to file an appropriate application in this court.
10. The learned Arbitrator shall then proceed with the arbitral proceedings in accordance with the rules and regulations of DIAC and subject to arbitrator's fee and arbitration costs, as may be applicable.
11. All rights and contentions of the parties in relation to the claims/counter-claims are kept open, to be decided by the learned Sole Arbitrator on merits, in accordance with law.
12. A copy of this order be communicated *forthwith* to the Co-ordinator, DIAC, for information and compliance.
13. A copy of this order be sent by e-mail to the learned Sole Arbitrator, as also to learned counsel for the parties.
14. The petition stands disposed-of in the above terms.
15. Pending applications, if any, also stand disposed of.

ANUP JAIRAM BHAMBHANI, J

JANUARY 11, 2024/uj