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

+ ARB.P. 991/2023

RAMA ARORA

..... Petitioner

Through: Ms. Damini Chawla and Mr.
Musheer Zaidi, Advocates.

versus

SANTOSH KUMAR SINGH & ANR.

..... Respondents

Through: None.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

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27.02.2024

1. By way of the present petition filed under Section 11(6) of the Arbitration and Conciliation Act, 1996, ["the Act"], the petitioner seeks appointment of a Sole Arbitrator to adjudicate disputes between the parties, under a registered lease deed dated 01.05.2018.

2. It is submitted that the said lease deed contains an arbitration clause [Clause 4 (xiii)], which provides that all disputes, with respect to the said agreement, shall be referred to arbitration and further provides that the place of arbitration would be at Delhi.

3. Disputes having arisen between the parties, the petitioner invoked arbitration vide notice dated 24.04.2023, to which no response has been received.

4. Pursuant to notice issued on 22.09.2023, learned counsel for the respondents entered appearance on 10.11.2023, and three opportunities have been given for filing a reply, the last one upon payment of costs.

5. The respondents are unrepresented today, even on the second call.

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They have neither filed the reply in terms of the liberty granted, nor paid costs. In these circumstances, I do not consider it necessary to await their appearance further.

6. The petitioner has made out a *prima facie* case with regard to existence of the arbitration agreement in the lease deed. Although the arbitration clause contemplated appointment of the arbitrator by the petitioner, the petitioner accepts that such unilateral appointment is impermissible in law, and has, therefore, approached this Court for appointment. The respondents have also not filed a reply or appeared today to controvert the submissions of the petitioner.

7. In these circumstances, the petition is allowed and the disputes between the parties are referred to arbitration under the aegis of Delhi International Arbitration Centre, Delhi High Court, Shershah Road, New Delhi-110503 [“DIAC”]. DIAC is requested to nominate an Arbitrator from its panel. The arbitration proceedings will be governed by the Rules of DIAC, including as to remuneration of the learned Arbitrator.

8. The learned Arbitrator is requested to furnish a declaration under Section 12 of the Act, prior to entering upon the reference.

9. Since the respondents are unrepresented today, notice of the arbitration proceedings will be served upon the respondents in accordance with the DIAC Rules. It is also made clear that this Court has not adjudicated the rights and contentions of the parties on merits, which are reserved for adjudication by the learned Arbitrator.

PRATEEK JALAN, J

FEBRUARY 27, 2024/SS/