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

+ **O.M.P.(I) (COMM.) 215/2024**

JYOTI KATARIA

.....Petitioner

Through: Mr. A.K. Singla, Senior Advocate
with Mr. Rahul Shukla & Mr.
Ramandeep Singh, Advocates.

versus

HARKARAN SINGH SACHDEV & ORS.

.....Respondents

Through: Mr. Anukul Raj, Ms. Nikita Raj,
Mr. Tushar Bhalla & Mr. Pratik
Sharma, Advocates.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

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05.07.2024

I.A. 32369/2024(Exemption)

Exemption allowed, subject to all just exceptions.

The application stands disposed of.

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1. The petitioner has filed this petition under Section 9 of the Arbitration and Conciliation Act, 1996 [“the Act”], seeking interim measures of protection in anticipation of arbitration proceedings under a “LLP Agreement” [“the Agreement”] dated 11.04.2017.
2. The petitioner and respondent No. 1 [alongwith a third party by the name of Mrs. Guneet Johar] are parties to the aforesaid Agreement, by which they constituted an LLP. Mrs. Guneet Johar has since retired from

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the partnership, as evidenced by a supplementary deed dated 31.03.2021. The petitioner and respondent No. 1 alone remain partners in the LLP. Clause 21 of the Agreement provides for resolution of disputes between the partners by arbitration of a sole arbitrator.

3. According to the petitioner, disputes have arisen with regard to the conduct of the partnership business. Her specific allegation is that respondent No. 1 and his wife [who is arrayed as respondent No. 2] have constituted a private limited company [respondent No. 3] to which they have diverted the business of the LLP. It is also contended that respondent No. 2 is purporting to conduct the business of the LLP which she is not authorised to, as an authorised representative.

4. Mr. Anukul Raj, learned counsel, appears on advance notice, on behalf of respondent No. 1.

5. There is some controversy between the parties as to whether respondent Nos. 2 and 3 are liable to be included as parties to any proposed arbitration proceedings. Without prejudice to their contentions in this aspect, Mr. A.K. Singla, learned Senior Counsel for the petitioner and Mr. Anukul Raj, learned counsel for respondent No. 1, agree that the disputes between these two parties may be referred to arbitration in these proceedings itself, leaving it open to them to make all their respective contentions before the learned arbitrator, including on the question of whether respondent Nos. 2 and 3 are amenable to arbitration. They also request that the present petition be treated as an application under Section 17 of the Act before the learned arbitrator, who may take a decision on the interim measures required.

6. Having regard to the above, the petition is disposed of with the



consent of learned counsel for the parties, by referring the disputes between the petitioner and respondent No. 1 under the LLP Agreement dated 11.04.2017 to the arbitration of Mr. LK. Gaur, former District Judge [Tel:-8800881765].

7. The arbitration will be held under the aegis of Delhi International Arbitration Centre, Shershah Road, New Delhi-110503 [“DIAC”], and will be governed by the Rules of DIAC, including as to the 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. The present petition will be treated as an application under Section 17 of the Act, before the learned Arbitrator. Respondent No. 1 may file a reply to the application within two weeks from today, or immediately upon the learned Arbitrator entering into the reference, whichever is later.

10. The parties may request the learned Arbitrator to take up the application under Section 17 of the Act as expeditiously as convenient.

11. It is made clear that this Court has not made any comment upon the merits of the matter, even on a *prima facie* basis.

12. The petition stands disposed of in these terms.

PRATEEK JALAN, J

JULY 5, 2024
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