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

+ **ARB.P. 1009/2023**

RAJ BHARTI DWIVEDI

..... Petitioner

Through: Mr.Subhro Prokas Mukherjee,
Mr.Avinash Shukla and Mr.Sarthak
Pathak, advts.

versus

M/S OMAXE LIMITED THROUGH ITS DIRECTOR

..... Respondent

Through: Mr.Neha Chaturvedi, Adv.
(through VC)

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

ORDER

05.04.2024

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I.A. 18936/2023 (exemption)

1. Exemption is allowed subject to all just exceptions
2. Application stands disposed of.

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3. By way of the present petition filed under Section 11(6) of the Arbitration and Conciliation Act, 1996 (hereinafter, referred to as the 'A&C Act'), the petitioner seeks appointment of an Arbitral Tribunal comprising of a sole arbitrator, to adjudicate the disputes *inter se* the parties.
4. Learned Counsel for the petitioner submits that the petitioner's predecessor-in-interest was allotted a commercial property vide the allotment letter dated 17.02.2011 by the respondent. It has further been



submitted that vide an addendum dated 17.02.2011, it was agreed that the respondent would pay the petitioner's predecessor-in-interest commitment charge of Rs.61,783 (minus TDS) every month during the commitment period and a lease deed dated 17.02.2011 containing an arbitration clause was duly executed between the parties.

5. Learned counsel has further submitted that it was further been agreed between the parties that the petitioner's predecessor-in-interest would lease the subject property for 11 years from the end of the commitment charge period for which the respondent would pay the petitioner a monthly lease rent of Rs.61,783 in the manner and for the tenure as provided in the Lease Agreement. Subsequently, the petitioner acquired the interests of the Original Allottee/petitioner's predecessor-in-interest by way of a communication dated 22.04.2017 which was consented by the respondent. Learned counsel has submitted that however, the respondent has failed to make the payment. The arbitration was duly invoked by notice dated 15.06.2023.
6. Learned counsel for the respondent has raised an objection that the agreement is not duly stamped. However, in view of the judgment of the Hon'ble Supreme Court i.e., "***In Re: Interplay Between Arbitration Agreements Under The Arbitration And Conciliation Act 1996 and The Indian Stamp Act 1899***" Neutral Citation: 2023 INSC 1066; the examination of the arbitration agreement with regards to Stamp duty paid or not no more falls within the domain of this court.
7. Both the parties have submitted that a sole arbitrator may be appointed.
8. Considering that both the parties have consented to the reference to the arbitral tribunal, the present petition is disposed of with the following



directions:

- i) The disputes between the parties under the said agreement are referred to the arbitral tribunal.
 - ii) As agreed by both the counsels for the parties, DIAC shall nominate an Arbitrator to adjudicate the disputes between the parties.
 - iii) The arbitration will be held under the aegis of the Delhi International Arbitration Centre, Delhi High Court, Sher Shah Road, New Delhi hereinafter, referred to as the 'DIAC'). The remuneration of the learned Arbitrator shall be in terms of fee rules of the DIAC schedule or as the parties may agree.
 - iv) The learned Arbitrator is requested to furnish a declaration in terms of Section 12 of the Act prior to entering into the reference.
 - v) It is made clear that all the rights and contentions of the parties, including as to the arbitrability of any of the claim, any other preliminary objection, as well as claims on merits of the dispute of either of the parties, are left open for adjudication by the learned arbitrator.
 - vi) The parties shall approach the learned arbitrator within two weeks from today.
9. The petition is disposed of in the above terms.

DINESH KUMAR SHARMA, J

APRIL 5, 2024

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