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

+ **ARB.P. 990/2024**

SURYA MAINTENANCE AGENCY PRIVATE LIMITED

.....Petitioner

Through: Mr. Utsav Garg, Ms. Tulna Rampal,
Mr. Aditya Bakshi, Advs.

versus

HEENA SHOREWALA AND ANR

.....Respondent

Through: Mr. Pradeep Pandey, Adv.

CORAM:

HON'BLE MR. JUSTICE JASMEET SINGH

ORDER

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04.10.2024

1. This is a petition under Section 11(6) of the Arbitration and Conciliation Act, 1966 seeking appointment of an Arbitrator in terms of Maintenance Agreement dated 13.09.2011.
2. The facts are that the petitioner is a Mall Maintenance Company providing maintenance services in various commercial complexes and malls.
3. The respondents are the purchasers of Office No. 317-C&D on III floor, having covered area of 6725.00 sq. ft. and super area of 11208.33 sq. ft. at City Centre, Plot No. 1B3, Twin District Centre, Sector 10, Rohini, wherein the petitioner company is providing maintenance services.
4. The Maintenance Agreement dated 13.09.2011 is alleged to have been executed between the petitioner and the respondents for providing maintenance services.



5. It is stated that the respondents failed to pay maintenance charges and hence, the present petition.
6. The Arbitration clause is Article 20 of the Maintenance Agreement and reads as under:

**“ARTICLE 20
ARBITRATION**

20.1 All disputes, difference or disagreement arising out of, in connection with or in relation to this agreement shall be mutually discussed and settled between the parties.

20.2 All disputes, difference or disagreement arising out of, in connection with or in relation to this agreement, which cannot be amicably settled, shall be finally decided by arbitration to be held in accordance with the provisions of the Arbitration and Conciliation Act, 1996. Any arbitration pursuant hereunder shall be a domestic arbitration under the applicable law.

20.3 The venue of arbitration shall be Delhi and the language of arbitration shall be English.

20.4 That all the disputes differences between the parties or in respect of any matter with regard to rights, dues and liabilities of any of the parties, shall be settled by reference to Arbitration to a sole Arbitrator to be appointed by the Company as per provision of Arbitration and Conciliation Act, 1996, together with any statutory proceeding shall be held and conducted at Delhi.”

7. Since there were disputes, the petitioner invoked arbitration on 09.04.2024 and thereafter has filed the present petition.
8. Mr. Pradeep Pandey, learned counsel appears for the respondent and has raised two objections.
9. The first objection being that the Maintenance Agreement is not



signed by the respondents and secondly, that the petitioner issued a “No Dues Certificate” dated 13.05.2016 in favour of the respondent.

10. As regards the first objection is concerned, it is to be noted that the property in question stands in the name of Ms. Heena Shorewala (respondent no.1) and Ms. Narmada Rani (respondent no.2).

11. The Maintenance Agreement is signed by Mr. Kamal Shorewala for and on behalf of the owners/respondents.

12. The rejoinder filed by the petitioner shows that while purchasing the property, Mr. Kamal Kumar had signed the Sale Deed as the General Power of Attorney for Ms. Narmada Rani (respondent no.2).

13. It is stated that Mr. Kamal Kumar and Mr. Kamal Shorewala is the same person who is the son of Ms. Narmada Rani (respondent no.2).

14. *Prima-facie*, it seems that the Agreement is signed by the duly authorised person.

15. As regards the No Dues Certificate is concerned, assuming the same to be true, the same only shows maintenance charges cleared up to 30.06.2015. Even as per the best case of the respondent, there is no certificate showing that maintenance charges have been paid subsequently. This is an issue which the learned Arbitrator can decide after pleadings and evidence.

16. In this view, all the objections of the respondents, including that the Agreement has not been duly signed by the respondents, are left open to be adjudicated by the learned Arbitrator after evidence has been led.

17. For the said reasons, the petition is allowed and the following directions are issued:-

i) Mr. Naveen Kumar Chaudhary, Adv. (Mob. No. 9810372713)



- is appointed as a Sole Arbitrator to adjudicate the disputes between the parties.
- ii) 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').
 - iii) The remuneration of the learned Arbitrator shall be in terms of DIAC (Administrative Cost and Arbitrators' Fees) Rules, 2018.
 - 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/counter-claims and 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.

JASMEET SINGH, J

OCTOBER 4, 2024/sp/dm

[Click here to check corrigendum, if any](#)