



2024:DHC:5192



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

+ **ARB.P. 1008/2024**

**SURESH DHANUKA**

.....Petitioner

Through: Mr. Shreenath A. Khemka and  
Mr. Ganesh A. Khemka, Advs.

versus

**SHAHNAZ HUSAIN**

.....Respondent

Through: Mr. Chetan Sinha and Mr. Jatin  
Bhatia, Advs.

**CORAM:**

**HON'BLE MR. JUSTICE C.HARI SHANKAR**

**JUDGMENT (ORAL)**

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**12.07.2024**

**I.A. 33096/2024 (Exemption)**

1. Allowed, subject to all just exceptions.
2. The application is disposed of.

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3. Issue notice. Notice is accepted on behalf of the respondent by Mr. Chetan Sinha.
4. This is a petition under Section 11(5) of the Arbitration and Conciliation Act, 1996 ("the 1996 Act"), for appointment of an arbitrator to arbitrate on the disputes between the parties.



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5. The petition emanates from an agreement dated 16 April 2008 between the petitioner and the respondent. The agreement envisages, in Clause X, resolution of disputes by arbitration. The clause reads thus:

**“X ARBITRATION”**

(i) All disputes arising in connection with this MOU shall be settled, if possible, by amicable negotiation of the parties.

(ii) If the matter is not resolved by amicable negotiations within 20 (twenty) business days or such later date as may be unanimously agreed upon, then the dispute shall be finally settled by arbitration in accordance Indian Arbitration and Conciliation Act 1996. It is specifically agreed between the parties that the Arbitrator shall be of Indian origin.

(iii) The arbitration shall be conducted in the English language in New Delhi. The laws of India shall govern the validity, interpretation, construction, performance and enforcement of the arbitration and the conduct of any arbitration proceedings hereunder, including making the arbitral award.

(iv) The arbitration award shall be final and binding upon both the parties.”

6. The notice dated 1 June 2024, issued by the petitioner under Section 21 of the 1996 Act specifically avers that attempts at an amicable resolution of the disputes, which was sought to be initiated by the petitioner *vide* letter dated 20 March 2024, did not fructify. The pre-arbitral protocol envisaged by Clause X of the agreement having thus been exhausted, the dispute was ripe for being referred to the arbitration.



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7. The Section 21 notice addressed by the petitioner to the respondent suggests the name of an advocate of this Court as a sole arbitrator. The respondent, in his reply, suggested the name of another advocate to arbitrate. Neither side is agreeable to the name suggested by the other.

8. It is in these circumstances that the petitioner has approached this Court under Section 11(5) of the 1996 Act, requesting this Court to appoint an arbitrator.

9. Mr. Chetan Sinha, learned Counsel for the respondent has no objection if the arbitrator is not one of the persons named by either of the parties. Accordingly, this Court appoints Mr R V Sinha, advocate (9868230464) to arbitrate on the disputes between the parties.

10. The learned arbitrator shall be entitled to be paid fees in accordance with the Fourth Schedule to the 1996 Act. The learned arbitrator is also requested to file the requisite disclosure as required by Section 12 of the 1996 Act, at least three days before entering on reference.

11. The petition stands disposed of accordingly.

**C.HARI SHANKAR, J**

**JULY 12, 2024**

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*Click here to check corrigendum, if any*