



2024:DHC:6372



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

+ **ARB.P. 1026/2024**

NCE TECHNOLOGIES INDIA LLP

.....Petitioner

Through: Mr. Gaurav Gupta, Ms. Rupal
Gupta and Mr. Sahil Singh, Advocates

versus

DLF UNIVERSAL LTD

.....Respondent

Through: Ms. Ambika and Mr. Nitish D,
Advocates

CORAM:

HON'BLE MR. JUSTICE C. HARI SHANKAR

ORDER (ORAL)

21.08.2024

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1. This is a petition under Section 11(6) of the Arbitration and Conciliation Act, 1996¹, seeking reference of the dispute between the parties to arbitration.

2. The dispute arises in the context of a lease deed dated 1 April 2009 executed between the predecessor of the petitioner, M/s Welltime Housing and Finance Pvt Ltd and M/s DLF Food Courts Pvt Ltd, a subsidiary of the respondent. Though, facially, DLF Food Courts Pvt Ltd is the lessee in the lease deed, Mr. Gaurav Gupta, learned counsel for the petitioner submits that, in all subsequent communications, the respondent DLF Universal Ltd has been describing itself as the lessee and that therefore, M/s DLF Universal Ltd is effectively the lessee in the lease deed.

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3. He further submits that the original lessor Welltime Housing and Finance Pvt Ltd stands amalgamated in the petitioner NCE Technologies India LLP *vide* order dated 3 September 2019 passed by the learned National Company Law Tribunal, New Delhi.

4. The lease deed envisages resolution of disputes between the parties by arbitration. The relevant clause in that regard is extracted as under:

“ Arbitration – All or any dispute arising out of or touching upon or in relation to the terms of the Lease Deed including the interpretation and validity of the terms thereof and the respective rights and obligations of the parties shall be settled amicably by mutual discussions failing which the same shall be settled through arbitration. The arbitration shall be governed by the Arbitration and Conciliation Act, 1996 or any statutory amendments/modifications thereto for the time being in force. The arbitration proceedings shall be held in English. The arbitration proceedings shall be held at an appropriate location in New Delhi by a Sole Arbitrator jointly appointed by both parties. If the parties are not able to agree on appointment of a Sole Arbitrator, then the arbitration shall be conducted by an Arbitral Tribunal comprising of threeone arbitrator and the two arbitrators thus appointed shall appoint a third arbitrator. The award of the arbitrator(s) shall be final and binding upon the parties.”

5. Clearly, the afore-extracted arbitration clause does not envisage any pre-arbitral protocol which is required to be satisfied before arbitration is invoked.

6. The petitioner therefore addressed a notice dated 11 April 2024 to the respondent seeking invocation of the arbitration to resolve the disputes between the parties.

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7. As the parties were not able to arrive at a consensus in that regard, the petitioner has filed the present petition before this Court, praying that an Arbitrator be appointed to arbitrate on the disputes between the parties.

8. Ms. Ambika, learned counsel for the respondent, has no objection to the dispute being referred to arbitration.

9. As such, this Court appoints Mr. Rajan Sharma (Tel. 9873098946) as the Arbitrator to arbitrate on the dispute between the parties.

10. The Arbitrator shall be entitled to charge fees as per the Fourth Schedule to the 1996 Act.

11. The learned arbitrator is also requested to file the requisite disclosure under Section 12(2) of the 1996 Act, within a week of entering on reference.

12. All questions of fact and law are left open for agitation in the arbitral proceedings.

13. The petition stands disposed of in the aforesaid terms.

C.HARI SHANKAR, J

AUGUST 21, 2024

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

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