



\$~5

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

+ **ARB.P. 1097/2023**

M/S SINGER INDIA LIMITED

..... Petitioner

Through: Ms. Shivani Sharma, Advocate.

versus

M/S B.B.S ENTERPRISES AND ANR

..... Respondents

Through: None.

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

12.02.2024

%

By way of the present petition under section 11(6) of the Arbitration & Conciliation Act 1996 ('A&C Act' for short), the petitioner seeks appointment of an arbitrator to adjudicate upon the disputes that are stated to have arisen with the respondent from Dealership Agreement dated 12.08.2017 ('Agreement').

2. Ms. Shivani Sharma, learned counsel for the petitioner has drawn the attention of this court to clause 21 of the Agreement, which comprises the arbitration agreement between the parties; and contemplates reference of disputes between them to arbitration in accordance with the A&C Act; with a further stipulation that arbitration would be conducted in New Delhi; also subjecting the contract between the parties to the jurisdiction of courts of law at New Delhi.
3. As per the record, the petitioner invoked arbitration *vide* Notice dated 08.12.2022; to which the respondent has not sent any reply.



4. Notice on this petition was issued on 18.10.2023, including by *dasti* service, returnable for 08.12.2023.
5. On 08.12.2023, the court recorded that as per the affidavit of service filed on their behalf, the petitioner had affirmed that the respondents had been served through speed-post, courier and WhatsApp. However, since no one was present on behalf of the respondents on that date, the court had directed the petitioner to take fresh steps for *dasti* service, returnable for the next date of hearing *i.e.*, today.
6. Though fresh affidavit of service is stated to have been filed, the same is not on record.
7. Be that as it may, it is noticed that in the meantime, the respondents stand served through the Process Server of the Judge-in-Charge, Process Establishment Section, Kendrapara, Odisha as borne-out by the Process Server's report received in the Registry of this court.
8. It is further noticed that respondent No. 2 is the sole proprietor of respondent No.1/sole partnership concern.
9. However, no one is present on behalf of the respondents when the matter is called-out today; nor has any reply been filed.
10. In the circumstances, this court is satisfied that, having been duly served, the respondents have chosen not to be represented in the matter.
11. The respondents are accordingly set *ex-parte*.
12. Upon being queried, learned counsel for the petitioner submits that the quantum of their claim against the respondent is about Rs. 2.62 lacs.



13. Upon a conspectus of the averments contained in the petition and the submissions made, this court is satisfied that there is a valid and subsisting arbitration agreement between the parties; that this court has territorial jurisdiction to entertain and decide the present petition; and also that the disputes that are stated to have arisen between the parties as set-out *inter-alia* in invocation notice dated 08.12.2022 do not appear *ex-facie* to be non-arbitrable.
14. Accordingly, the present petition is allowed; and considering the small amount in dispute **Ms. Kaveri Rawal, Advocate (Cellphone No.: +91 9873277666)**, who is present in court, is appointed as the learned Sole Arbitrator to adjudicate upon the disputes between the parties.
15. The learned Arbitrator may proceed with the arbitral proceedings subject to furnishing to the parties requisite disclosures as required under section 12 of the A&C Act; and in the event there is any impediment to the appointment on that count, the parties are given liberty to file an appropriate application in this court.
16. The learned Arbitrator shall be entitled to fee in accordance with Fourth Schedule to the A&C Act; or as may otherwise be agreed to between the parties and the learned Arbitrator.
17. Parties shall share the arbitrator's fee and arbitral costs, equally.
18. All rights and contentions of the parties in relation to the claims/counter-claims are kept open, to be decided by the learned Arbitrator on merits, in accordance with law.
19. The petitioner is directed to approach the learned Arbitrator appointed within 15 days.



20. Though the learned Sole Arbitrator is present in court, and has been apprised of the order, let a copy of this order be also formally communicated by the Registry to the learned Sole Arbitrator.
21. The petition stands disposed of in the above terms.
22. Other pending applications, if any, also stand disposed of.
23. The Registry is also directed to send a copy of this order to the respondents on the address and the e-mail ID available on record.

ANUP JAIRAM BHAMBHANI, J

FEBRUARY 12, 2024