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

+ **ARB.P. 1146/2023**

M/S G. M. ENTERPRISES PVT LTD Petitioner
Through: **Mr. Parvinder Chauhan with Ms.
Aakriti Garg, Advocates.**

versus

M/S G3S FOODSHALA PVT LTD AND ORS Respondents
Through: **Mr. Manish Malhotra, Advocate.**

CORAM:
HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

% **ORDER**
18.01.2024

By way of the present petition under section 11 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 Lease Deed dated 18.12.2019 ('Lease Deed').

2. Mr. Parvinder Chauhan, learned counsel for the petitioner has drawn the attention of this court to clause 30 of the Lease Deed, which comprises the arbitration agreement between the parties; and contemplates reference of disputes between them to arbitration in accordance with the A&C Act.
3. While there is no clause stipulating the 'venue' or 'seat' of arbitration, clause 30 of the Lease Deed subjects the contract between the parties to the jurisdiction of courts of law at New Delhi; apart from the fact that the property that is subject matter of the lease deed is situate in Delhi; and the parties also have their addresses in Delhi.



4. As per the record, the petitioner invoked arbitration *vide* notice dated 26.08.2023; to which the respondents sent no reply.
5. Notice on this petition was issued on 03.11.2023; consequent whereupon Mr. Manish Malhotra, learned counsel appearing for the respondents submits, that a reply has been filed by the respondents, which however is not on record. Let it be brought on record.
6. After making some submissions, learned counsel appearing for the parties jointly submit that the present petition may be disposed-of appointing a Sole Arbitrator to adjudicate upon the disputes that have arisen from the Lease Deed; further praying however, that before arbitral proceedings commence, the parties be granted an opportunity to attempt a negotiated settlement of their disputes under the aegis of the Delhi High Court Mediation & Conciliation Centre.
7. In view of what is recorded above, the course that commends itself for acceptance to this court, is to appoint a sole arbitrator to adjudicate upon the disputes between the parties; and to then hold the appointment in abeyance for 04 weeks, affording to the parties sufficient time to attempt an amicable resolution of their *inter-se* disputes through mediation.
8. Accordingly, the present petition is allowed; and **Mr. Rahul Narayan, Advocate** (Cellphone No. : +91 9810068688) is appointed as the learned Sole Arbitrator to adjudicate upon the disputes between the parties.
9. 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.

10. 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.
11. Parties shall share the arbitrator's fee and arbitral costs, equally.
12. All rights and contentions of the parties in relation to the claims/counter-claims are kept open, to be decided by the learned Sole Arbitrator on merits, in accordance with law.
13. In view of the request made by the parties, and to afford to them an opportunity for a negotiated settlement, the order appointing the arbitrator shall be held in abeyance for a period of 04 weeks from today, during which time the parties are at liberty to attempt a negotiated settlement of their disputes; failing which, the order of appointment shall take effect.
14. Accordingly, at request, the parties are referred to mediation under the aegis of Delhi High Court Mediation & Conciliation Centre, with a request to the learned Organizing Secretary to appoint an appropriate mediator in the matter.
15. Let the parties approach the Mediation Centre on Wednesday *i.e.* 24th January 2024 at 02:30 p.m. for the above purpose.
16. A copy of this order be sent to the learned Organizing Secretary of the Mediation Centre, for information and compliance.
17. Parties are directed to sincerely attempt to settle their *inter-se* disputes through mediation within two months; and in the event settlement does



not fructify within the said period, to approach the learned Arbitrator hereby appointed, within 10 days after the aforesaid 04 weeks period.

18. The petition stands disposed-of in the above terms.
19. Other pending applications, if any, also stand disposed of.

ANUP JAIRAM BHAMBHANI, J

JANUARY 18, 2024
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