



2024:DHC:5254



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

+ **ARB.P. 19/2024**

HERO MOTOCORP LIMITED

.....Petitioner

Through: Mr. Rahul Malhotra and Mr.
Rishu Kant Sharma, Advocates

versus

MR. DINESH KUMAR KAUSHAL

.....Respondent

Through: Mr. Ashutosh Senger, Adv.

+ **O.M.P.(I) (COMM.) 372/2023 and IA 22754/2023**

HERO MOTOCORP LIMITED

.....Petitioner

Through: Mr. Rahul Malhotra and Mr.
Rishu Kant Sharma, Advocates

versus

**MR DINESH KUMAR KAUSHAL SOLE PROPRIET
OR M S DV AUTOMOBILES**

.....Respondent

Through: Mr. Ashutosh Senger, Adv.

CORAM:

HON'BLE MR. JUSTICE C.HARI SHANKAR

ORDER (ORAL)

15.07.2024

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1. These are petitions under Section 9 and 11 of the Arbitration and Conciliation Act, 1996¹.

2. Learned counsel for the parties are *ad idem* that, given the quantum of the claim, the dispute may be referred to a Sole Arbitrator,

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though the agreement between the parties envisages resolution of the disputes by a three Member Arbitral Tribunal, and that OMP (I) (COMM) 372/2023 may be decided by the learned Arbitrator on “as is where is” basis, treating it as an application under Section 17 of the 1996 Act.

3. Learned counsel for the petitioner also suggests that the arbitration may take place under the aegis of the Delhi International Arbitration Centre (DIAC) and in accordance with the rules and regulations of the DIAC and as per the Schedule of Fees maintained by the DIAC.

4. Learned counsel for the respondent has no objection.

5. Accordingly, these petitions are disposed of, in the following terms:

(i) Ms. Swathi Sukumar, Advocate (Tel: 9717918652) is appointed as a Sole Arbitrator to arbitrate on the disputes between the parties.

(ii) The arbitration shall take place under the aegis of the DIAC and in accordance with its rules and regulations and as per the Schedule of Fees fixed by the DIAC.

(iii) The learned Arbitrator shall treat OMP (I) (COMM) 372/2023 as a Section 17 application and proceed to decide the OMP in accordance with law after giving an opportunity to both sides.

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1996 Act', hereafter

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6. Liberty stands reserved with the respondent to raise any counter-claims, if it so chooses in the arbitral proceedings in accordance with law.
7. All rights and contentions of the parties are left open. This Court has expressed no opinion on the merits of the matter.
8. The learned Arbitrator is requested to file the requisite disclosure under Section 12 of the 1996 Act within a week of entering on reference.
9. Both petitions stand disposed of in the aforesaid terms.

C.HARI SHANKAR, J

JULY 15, 2024/yg

Click here to check corrigendum, if any

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