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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
% **Date of Decision : 18.10.2024**
+ **ARB.P. 1156/2024**

MUKESH KUMAR SRIVASTAVPetitioner
Through: Mr. Dhruv Gautam, Advocate.

versus

SPIRE TECHPARK PRIVATE LIMITEDRespondent
Through: Ms. Nistha Gupta and Mr. Anuj
Panwar, Advocates.

CORAM:
HON'BLE MR. JUSTICE SACHIN DATTA

SACHIN DATTA, J. (ORAL)

1. The present petition under Section 11(6) of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as "the A&C Act") seeks appointment of a sole arbitrator to adjudicate the disputes between the parties.
2. The petitioner made an application to the respondent company for allotment of space/unit in its project and in furtherance of the said application, an agreement dated 09.11.2010 was executed between the parties, whereby, the petitioner acquired the leasehold rights to space/unit measuring 1000 square feet in Information Technology Park named "SpireTec" at Plot No. TZ-13A, Sector Tech Zone, GNIDA, Gautam Budh Nagar, U.P. valid till 31 December 2096.
3. Pursuant to the said agreement, the respondent offered notional possession of units to the petitioner on 31.07.2015 in the project which was now renamed from "SpireTec" to "World Trade Center, Noida".
4. Thereafter, a Deed of Accession was executed between the petitioner



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and IL & FS Trust Company Limited, whereby, the right to rent out the units as well as the right to receive the rent on the petitioner's behalf was assumed by the Trust named "FL06TEC1 TRUST", and IL & FS Trust Company Limited was appointed the Trustee by virtue of the Trust Deed Dated 23.05.2015.

5. Subsequent to the said Deed of Accession, a Tripartite Sub-Lease Deed dated 20.04.2016 was executed between Greater Noida Industrial Development Authority (GNIDA) as the 'Lessor', M/s. Sundaram I. T. Parks Private Limited as 'Lessee' which was represented by the authorized signatory of the respondent company, and the petitioner as the "sub-lessee", whereby, the Petitioner became the registered owner of unit nos. T1 – R – 0403B and T1 – R – 0404A on floor no. FL04 in tower Tec-1 at Plot No. TZ-13A, Sector Tech Zone, GNIDA, Gautam Budh Nagar.

6. Subsequently, a Memorandum of Understanding ('MoU') was executed between the petitioner and the respondent, whereby, the respondent undertook to pay to the petitioner "Commitment Charges" to the tune of Rs.40/- per square foot with effect from 01.08.2015 till 31.07.2018 *i.e.*, for a period of 36 months.

7. The disputes between the parties have arisen with regard to the entitlement of the petitioner to receive rent from the respondent. Disputes have also arisen on account of certain demands being raised by the respondent on the petitioner.

8. Admittedly, the MoU between the parties contains a dispute resolution clause as under :-

"Article 9
Dispute Resolution



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9.1 *Rights and obligations of parties arising from or concerning this MOU shall be construed and enforced in accordance with the laws of India.*

9.2 *In case of any dispute between the parties hereto (including their successors) concerning this MOU or matters arising there from, same shall be adjudicated by way of arbitration, which shall be conducted by an arbitrator nominated / appointed by developer. Arbitration shall be held at New Delhi.*

9.3 *Subject to arbitration clause, for all legal matters between the developer and allottee, Courts/ Tribunals/ Forums at New Delhi shall have the exclusive jurisdiction. "*

9. Learned counsel for the respondent does not dispute the existence of the arbitration agreement between the parties. She accedes to the appointment of an independent sole Arbitrator by this Court to adjudicate the disputes between the parties.

10. Accordingly, with the consent of the parties, Ms. Shreya Vedantika Mehra, Advocate (Mob. No. +91 9910027557) is appointed as the Sole Arbitrator to adjudicate the disputes between the parties.

11. The learned Sole Arbitrator may proceed with the arbitration proceedings, subject to furnishing to the parties, requisite disclosures as required under Section 12 of the A&C Act.

12. The learned Sole Arbitrator shall be entitled to fee in accordance with the IVth Schedule of the A&C Act; or as may otherwise be agreed to between the parties and the learned Sole Arbitrator.

13. The parties shall share the arbitrator's fee and arbitral cost, equally.

14. All rights and contentions of the parties in relation to the



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claims/counter claims are kept open, to be decided by the learned Sole Arbitrator on their merits, in accordance with law.

15. Needless to say, nothing in this order shall be construed as an expression of opinion of this Court on the merits of the controversy between the parties. All rights and contentions of the parties in this regard are reserved.

16. The present petition is allowed in the above terms.

SACHIN DATTA, J

OCTOBER 18, 2024/r, sv