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

+ O.M.P. (T) (COMM.) 6/2024, I.A. 2071/2024, I.A. 2072/2024

DURHAM CARE LINE INDIA PVT LTD Petitioner

Through: Mr. Lakhan Kumar Mishra, Adv.

versus

ICICI BANK LIMITED Respondent

Through: Dr. Hemant Gupta, Mr. Shivang Jain,
Adv.

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

ORDER

09.02.2024

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1. The present petition has been filed under Sections 14 & 15 of the Arbitration and Conciliation Act, 1996 (hereinafter, referred to as the 'A&C Act') for the appointment of an Arbitrator.
2. Learned counsel submits that vide order dated 28.01.2024 Mr. Pawan Jeet Singh Bindra, Senior Advocate was appointed as an Arbitrator. However, vide communication dated 25.02.2022 Mr. Pawan Jeet Singh Bindra, Senior Advocate refused to be an Arbitrator as he has already advised ICICI Bank Limited on legal issues.
3. Thus, the request has been made to substitute/replace the arbitrator.
4. Learned counsel submits that the amount in dispute is around Rs. 25-26 lacs. Learned counsel for the respondent submits that the dispute is not liable to be referred as it is barred by limitation. However, I consider that since already an Arbitrator was appointed by this, the court at this stage cannot go into this question. Therefore, all the contentions including limitations to be kept open to be adjudicated by the learned



Arbitrator.

5. In view of the submissions made, the present petition is disposed of with the following directions:
- i) The disputes between the parties under the said agreement are referred to the arbitral tribunal.
 - ii) As agreed by both the counsels for the parties, DIAC shall nominate an Arbitrator to adjudicate the disputes between the parties.
 - iii) The arbitration will be held under the aegis of the Delhi International Arbitration Centre, Delhi High Court, Sher Shah Road, New Delhi hereinafter, referred to as the 'DIAC'). The remuneration of the learned Arbitrator shall be in terms of Schedule IV of the A&C Act or as the parties may agree.
 - iv) The learned Arbitrator is requested to furnish a declaration in terms of Section 12 of the Act prior to entering into the reference.
 - v) It is made clear that all the rights and contentions of the parties, including as to the arbitrability of any of the claim, any other preliminary objection, as well as claims on merits of the dispute of either of the parties, are left open for adjudication by the learned arbitrator.
 - vi) The parties shall approach the learned arbitrator within two weeks from today.

DINESH KUMAR SHARMA, J

FEBRUARY 9, 2024/AR