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

+ **ARB.P. 1786/2024**

PACIFIC RETAIL CENTERS INDIA PVT LTDPetitioner

Through: **Ms. Prachi Vashisht, Advocate**

versus

DJT RETAILERS PVT LTD

.....Respondent

Through: **Mr. Manish Gupta, Advocate**
(through VC)

CORAM:

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

ORDER

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20.12.2024

ARB.P. 1786/2024

1. This is a petition filed under Section 11(6) of the Arbitration and Conciliation Act, 1996 ('the Act') seeking appointment of a sole Arbitrator as per Clause 21 of the Licence Agreement dated 07.02.2023 and its amendment dated 23.12.2023. Clause 21 of the agreement dated 07.02.2023 reads as under:

"21. ARBITRATION

21.1 All disputes, differences or disagreement arising out of, in connection with or in relation to this Agreement shall be mutually discussed and settled between the Parties.

21.2 All disputes, differences or disagreement arising out of, in connection with or in relation to this Agreement, which cannot be amicably settled, shall be finally decided by arbitration to be held in accordance with the provisions of the Arbitration and Conciliation Act, 1996. Any arbitration as aforesaid shall be a domestic arbitration under the applicable Law.

21.3 **The venue of arbitration shall be at Delhi** and the language of arbitration shall be English only.



2. Mr. Manish Gupta, learned counsel has entered appearance on behalf of Respondent.
3. He states that in addition to the Licence agreement separately a Maintenance and Services Agreement (MSA) as well was executed between the parties on 07.02.2023.
4. He states that both the agreements are co-terminus. He states that the Petitioner herein has also separately invoked the arbitration clause in the MSA and the petition seeking appointment of an Arbitrator therein has been numbered as ARB.P. 1783/2024 and is next listed on 20.02.2025.
5. He states in order to avoid conflict of judgments it would be in the interest of the parties that the same Tribunal is appointed to adjudicate disputes under both the agreements. He states that for this purpose the petition be deferred and listed on the same date.
6. Learned counsel for the Petitioner states that she has no objection and her statement be recorded that the sole Arbitrator appointed by this Court in for the Licence Agreement may also be appointed as a sole Arbitrator for the MSA.
7. She states that in a separate matter i.e. ARB.P. 1497/2024 between the same parties Ms. Geeta Luthra, Senior Advocate has been appointed as a sole Arbitrator to adjudicate the dispute.
8. In response, learned counsel for the Respondent states that the agreement which is the subject matter of ARB.P. 1497/2024 pertains to distinct premises and therefore there is no common issue for consideration in this matter. He states therefore a separate Arbitrator be appointed for the disputes which are subject matter of the Licence Agreement.



9. This Court has considered the submissions of the parties.

10. In view of the submissions recorded hereinabove considering that the existence of the arbitration agreement in terms of Clause 21 is not in dispute as well as the jurisdiction of this Court as per Clause 20 is not in dispute there is no impediment in allowing this application and appointing a sole Arbitrator to adjudicate the dispute between the parties.

11. In view of the statement of the Petitioner recorded in paragraph 6, the concerns of the Respondent qua a common Arbitrator for MSA stands addressed. The Petitioner is bound down to the statement recorded at paragraph 6 of the order.

12. In view of the above, the disputes between the parties under the License agreement are referred to the arbitral tribunal with the following directions:

- i. Mr. Anupam Srivastava, Senior Advocate (D/876/1991) (Mob. No. 9811032151; E-mail: anupam@asrivastava.in) is appointed as a Sole Arbitrator to adjudicate the disputes between the parties.
- ii. The sole Arbitrator is requested to furnish a declaration in terms of Section 12 of the Act before entering into the reference.

13. The rights and contentions of the parties, including as to the arbitrability of any of the claims, any other preliminary objection, as well as claims/counterclaims on merits of the dispute of either of the parties, are left open for adjudication by the learned arbitrator, in accordance with law.

14. Needless to state that nothing in this order shall be construed as an expression of opinion on the merits of the case.

15. At this stage learned counsel for the parties jointly consent that they have no objection if the arbitration is conducted under the aegis of the Delhi



International Arbitration and Conciliation Centre ('DIAC').

16. Accordingly, it is directed that the arbitration will be held under the aegis of DIAC and conducted under the Rules of DIAC.

17. The remuneration of the sole Arbitrator shall be in terms of Schedule IV of the Act, as amended by DIAC Rules,

18. List before the DIAC on 20.01.2025 at 04:00 P.M. Parties shall appear before the DIAC, on the said date.

19. Let a copy of this order be emailed to the Secretary DIAC.

20. The present petition stands disposed of in the above terms.

21. The digitally signed copy of this order, duly uploaded on the official website of the Delhi High Court, www.delhihighcourt.nic.in, shall be treated as a certified copy of the order for the purpose of ensuring compliance. No physical copy of order shall be insisted by any authority/entity or litigant.

MANMEET PRITAM SINGH ARORA, J
DECEMBER 20, 2024/mt/AKT

Click here to check corrigendum, if any