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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL DIVISION
COMMERCIAL ARBITRATION APPLICATION NO. 50 of 2025
WITH
COMMERCIAL ARBITRATION APPLICATION (L.) NO. 17193 of 2024

BERGGRUEN HOTELS PVT. LTD.

....Applicant

Versus

NESTOR HOTELS PVT. LTD.
& 3 Ors.

....Respondents

Adv. Aarsheya Sharda i/b Ms. Nisha Kaba, for Applicant.

*Mr. Farhan Dubash a/w. Viraj Parikh, Mansi Shah, Bhavana Dube Patil
i/b Pravin Mehta and Mithi and Co., for Respondent Nos. 1 to 3.*

CORAM : SOMASEKHAR SUNDARESAN, J.

Date : January 22, 2025

P. C.

1. Commercial Arbitration Application No. 50 of 2025 is an Application filed under Section 11 of the Arbitration and Conciliation Act, 1996 (“***the Act***”), seeking appointment of an arbitrator to whom disputes and differences between the parties may be referred in connection with a Master Service Agreement (“***MSA***”) and other agreements as covered by the Application.

2. Learned Counsel for the Petitioner submits that Commercial Arbitration (L.) No. 17193 of 2024, which is a Petition under Section 9 of the Act, has also been filed and is scheduled to be listed on February 5, 2025.

3. Today, when the matter is called out, Learned Counsel for the parties jointly submit that if the disputes and differences are sent to an arbitrator appointed by this Court, the Petition under Section 9 may be treated as an application under Section 17 of the Act, leaving it to the arbitrator to pass such orders as considered appropriate on such application.

4. In these circumstances, taking into account the inputs from the parties, Mr. Piyush Raheja, an advocate of this Court is appointed as an arbitrator, in the following terms :

- a. Mr. Piyush Raheja, an Advocate is hereby appointed as the Sole Arbitrator to adjudicate upon the disputes and differences between the parties arising out of and in connection with the Agreement referred to above.
- b. A copy of this Order shall be communicated to the Learned Sole Arbitrator by the Advocates for the Applicant within a period of one week from today. The Applicant shall provide the contact and communication particulars of the parties to the Arbitral Tribunal along with a copy of this Order;
- c. The Learned Sole Arbitrator is requested to forward the statutory

Statement of Disclosure under Section 11(8) read with Section 12(1) of the Arbitration Act to the parties within a period of two weeks from receipt of a copy of this Order;

- d. The parties shall appear before the Learned Sole Arbitrator on such date and at such place as indicated, to obtain appropriate directions with regard to conduct of the arbitration including fixing a schedule for pleadings, examination of witnesses, if any, schedule of hearings etc. At such meeting, the parties shall provide a valid and functional email address along with mobile and landline numbers of the respective Advocates of the parties to the Arbitral Tribunal. Communications to such email addresses shall constitute valid service of correspondence in connection with the arbitration;
- e. All arbitral costs and fees of the Arbitral Tribunal shall be borne by the parties equally in the first instance, and shall be subject to any final Award that may be passed by the Tribunal in relation to costs.

5. Learned Counsel for the parties also jointly submit that there are three agreements that are referred to in the Application under Section 11 of the Act, and each of these three would form subject matter of reference to arbitration. It would be up to the Arbitral Tribunal to decide on whether to merge the proceedings or hear them separately or issue such directions as considered appropriate to achieve economies of scale, considering that the disputes are between the very same parties.

6. With these directions, both, the Commercial Arbitration Application (L.) No. 17193 of 2024 and the Petition under Section 9 and the Application under Section 11 are hereby are *finally disposed of*.

7. All actions required to be taken pursuant to this order, shall be taken upon receipt of a downloaded copy as available on this Court's website.

[SOMASEKHAR SUNDARESAN, J.]