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

+ **ARB.P. 497/2024**

NARAYAN SHRESTHA

.....Petitioner

Through: Ms.Chandani Prasad and Mr.Anuj Jain,
Advocates

versus

**LATE SH. GYAN CHAN JAIN THROUGH LEGAL HEIRS AND
ORS.**

.....Respondent

Through: None

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

% **18.02.2025**

1. By way of present petition filed under Section 11(6) of the Arbitration and Conciliation Act, 1996 (hereinafter, referred to as the 'A&C Act'), the petitioner seeks appointment of Arbitral Tribunal comprising of a Sole Arbitrator, to adjudicate the disputes between the parties.
2. Learned counsel for the petitioner submits that the parties had entered into Leave & License Agreement dated 07.06.2016, Clauses 21(k) of which provides that disputes arising between the parties with respect to the subject Agreement shall be resolved through arbitration by a Sole Arbitrator.
3. Disputes having arisen between the parties in the context of the demised premises, the petitioner invoked arbitration vide notice dated 07.10.2023 issued under Section 21 of the A&C Act to the legal heirs of the licensee *Sh. Gyan Chand Jain*, who has since expired.



4. Notice of the present petition was issued to the respondents on 16.04.2024. A perusal of the order dated 27.09.2024 would show that learned counsel appeared for respondent Nos.1 and 2 and was given an opportunity to file a reply. Insofar as respondent No.3 is concerned, he has been statedly served through e-mail. Notably, respondent No.4 refused service at her known address. Considering the aforesaid, the Court observed that respondent Nos. 3 and 4 are deemed to be served.

5. Today, however, respondent Nos.1 to 4, who are the legal heirs being the wife and children of *late Sh. Gyan Chan Jain*, neither are represented nor any reply has been filed on their behalf. In view of the above, this Court is of the opinion that the respondents have no objection to the reference of the subject disputes to the Arbitral Tribunal.

6. Considering the above, including the fact that despite being represented on 27.09.2024, respondent Nos.1 and 2 have chosen to not appear today and since there is no reply or objection filed on their behalf, the respondents are deemed to have consented to the reference of the present dispute to arbitration before a Sole Arbitrator.

7. In view of the above, the present petition is disposed of with the following directions:

- i) The disputes between the parties under the said agreement are referred to Delhi International Arbitration Centre, Delhi High Court, Sher Shah Road, New Delhi (hereinafter, referred to as the 'DIAC') who shall nominate a Sole Arbitrator.
- ii) The arbitration will be held under the aegis of DIAC. The remuneration of the learned Arbitrator shall be in terms of DIAC (Administrative Cost and Arbitrators' Fees) Rules, 2018 or as the



parties may agree.

- iii) The learned Arbitrator shall furnish a declaration in terms of Section 12 of the Act prior to entering into the reference.
- iv) It is made clear that all the rights and contentions of the parties, including on the existence and validity of the Arbitration agreement, arbitrability of any of the claim/counter claim, any other preliminary objection, need and legality of interim relief, as well as contentions on merits of the dispute by either of the parties, are left open for adjudication by the learned Arbitrator.
- v) The parties shall approach DIAC within two weeks from today.

MANOJ KUMAR OHRI, J

FEBRUARY 18, 2025

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