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

+ **ARB.P. 821/2025 & I.A. 13719/2025**

MedOnGo HEALTH PRIVATE LIMITED

.....Petitioner

Through: Mr. Krishan Kumar, Mr. Seemant K.
Garg, Mr. Nitin Pal, Advs.

versus

DR. RAHUL GHULE AND ANR & ANR

.....Respondents

Through: Mr. Rajesh Udit Singh, Ms. Neha
Singh, Mr. Mohit Sinha, Advocates

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER

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28.10.2025

1. This Petition has been filed under Section 11(6) of the Arbitration and Conciliation Act, 1996 [**“Arbitration Act”**] seeking appointment of an Arbitrator as per Clause 18 of the Agreement dated 26.10.2021, to adjudicate on the disputes which have arisen between the parties.
2. It is stated that the Petitioner herein is a company registered under the Companies Act, 1956, and it provides a wide-range of services tailored to meet the specific needs of healthcare partners, while the Respondents No.1 & 2 are Doctors by profession and were acting as Managers/service providers and were responsible for establishing 50 clinics in the State of Maharashtra under the “Aapala Davakhana” project of Thane Municipal Corporation.
3. Facts leading to the filing of the present Petition are as follows:-
 - a. It is stated that in the year 2018, the Petitioner herein was



approached by the authorities for developing a project on the concept for smart health clinics in partnership with Thane Municipal Corporation [“**TMC**”]. It is stated that after successful demonstrations, TMC requested the Petitioner herein for a three-month paid pilot project, under which two clinics were set up within Thane.

- b. It is stated that looking at the success of the project, TMC updated its tender terms and issued a Public-Private Partnership [“**PPP**”] tender requiring a Rs.10 crore investment, with payments based on the number of consultations rather than upfront payments. It is stated that in order to fulfill the said project, the Petitioner herein partnered with a local operator, one Mr. Sunil Nagargoje, for operational support. It is stated that the Petitioner herein was awarded the tender by the TMC at Rs. 150/- per consultation.
- c. It is stated that Sunil Nagargoje failed to fulfil his financial obligations and thereafter, the Respondent No.1 herein, who is related to Sunil Nagargoje, demanded project control from the Petitioner on the basis of his connections.
- d. It is stated that the Petitioner thereafter entered into a Service Management Agreement dated 01.12.2020 with the Respondents No. 1 & 2, wherein the Petitioner herein was tasked to implement the “Aapla Davakhana” project in Thane by setting up 50 clinics in 90 days. Clause 24 of the said Agreement contains the Dispute Resolution Clause which reads as under:



“24. DISPUTE RESOLUTION: In the event of any dispute between the parties arising under this Agreement (including with regard to the existence, validity or enforceability of this Agreement or any provisions hereof), parties to the Agreement shall use their best efforts to resolve such disputes amicably through discussions and mutual consensus. Any dispute between the Parties as to matters arising under this Agreement which cannot be settled amicably within 30 days then shall be referred to the Municipal Commissioner of Company as a sole Arbitrator and his decision will be final and binding on both the parties accordance with the Arbitration and Conciliation Act, 1996 and rules made there under.”

- e. It is stated that an Amendment Agreement dated 26.10.2021 was also executed, wherein certain amendments to the original agreement relating to profit sharing between the Petitioner and Respondents, were carried out and accepted by both parties. This Agreement also contained an Arbitration Clause which reads as under:

“18. All the disputes will be solved through Arbitration and place of sitting of the arbitration will be in Delhi Any other dispute if any will be subject to Delhi court jurisdiction only.”

- f. It is stated that disputes arose between the parties when the Petitioner herein discovered serious financial embezzlement by Respondents herein in running the operations of the clinics.
- g. It is stated that the Petitioner herein sent a letter dated 20.12.2024 to the Respondents invoking Arbitration under



Section 21 of the Arbitration Act, raising the following claims
[“Section 21 Notice”]:

“a. Recovery of payments made to the addressees and their associates for amounting to Rs. 4,50,00,000/- and any additional amount as may be determined in the arbitration proceedings.

b. Compensation for the breach of obligations by the addressees and reimbursement of costs incurred by MedOnGo in connection with the audit, recovery, and legal proceedings to the tune of Rs. 127 Crores.

c. Recovery of the Bank Guarantee amount and any related costs, penalties, and damages arising from the non-fulfilment of obligations under the agreement.

d. Imposition of interest on the amounts to be recovered from the addressees as per applicable laws and contractual terms.

e. Recovery of legal fees, arbitration costs, and other expenses incurred in relation to the arbitration proceedings.”

- h. A reply to the Section 21 Notice was sent by the Respondents, wherein the Respondents denied the claims of the Petitioner herein on the ground that the claims of the Petitioner are baseless, vague and false.
- i. It is stated that since the claims of the Petitioner were denied by the Respondents and the cause of action arose in Mumbai and also for the reason that the Respondents are the residents of Mumbai, the Petitioner herein approached the Hon’ble High



Court of Bombay by filing Commercial Arbitration Petition No.6/2025, seeking appointment of an Arbitrator. *Vide* order dated 19.03.2025, the said Petition was disposed of as withdrawn, with liberty to the Petitioner herein to approach the appropriate forum.

4. Thereafter, the Petitioner has approached this Court by filing the present Petition for appointment of an Arbitrator in terms of the Service Management Agreement dated 01.12.2020 and amended Agreement dated 26.10.2021.
5. Notice in the present Petition was issued on 28.05.2025.
6. On 02.09.2025, Mr. Rajesh Udit Singh, learned Counsel, entered appearance on behalf of the Respondents and apprised this Court that the Petitioner has not mentioned about the Memorandum of Understanding dated 07.03.2024 [**“MoU dated 07.03.2024”**], entered into between the Petitioner herein and the Respondents.
7. Learned Counsel for the Respondents also submits that this Court does not have the jurisdiction to entertain the present Petition because as per Clause 7 of the MoU dated 07.03.2024 only the Courts in Bangalore have the territorial jurisdiction to entertain and adjudicate upon the disputes between the parties. He states that the MoU dated 07.03.2024 specifically provides that the seat of arbitration shall be Bangalore and that the Courts at Bangalore shall have the exclusive jurisdiction over all the disputes between the parties. Learned Counsel for the Respondents relies on the Judgment of the Apex Court in Bharat Aluminum Co. v. Kaiser Aluminium Technical Services Inc., (2012) 9 SCC 552, to contend that the seat of Arbitration determines the exclusive jurisdiction of the Court for all matters relating to



arbitration proceedings. He also relied on the Judgment of the Apex Court in BGS SGS Soma JV v. NHPC Ltd., (2020) 4 SCC 234, to contend that once the seat of arbitration is designated then only the courts at that seat shall have the exclusive jurisdiction to entertain the matters relating to the arbitration proceedings.

8. Heard the Counsels for the parties and perused the material on record.

9. Since the short point of contention that is raised on behalf of the Respondents rests on the MoU dated 07.03.2024, the same is reproduced in its entirety and reads as under:

“MEMORANDUM OF UNDERSTANDING

This MEMORANDUM OF UNDERSTANDING made and entered at Mumbai on this 07th day of March, 2024 (hereinafter being referred to as "MOU" or "Agreement")

MEDONGO HEALTH PRIVATE LIMITED through its Director- having Its office at New Add-No.177, 3rd Floor, 60ft Road, AECS, B-Block, Singasandra, Bangalore, Karnataka-560068, India. Old Add-5.Sourabha Complex, AM Industrial Estate, 7th Mile Road, Off Hasur Road, Garevebhavipalya, Bangalore, Karnataka-560068, India through its Director Mr. Balaji Krishnamagaru (hereinafter referred to as "FIRST PART") which expression shall unless it be repugnant to the meaning and context thereof be deemed to mean & include his heirs, Executors, Administrators and assigns of the FIRST PART:

AND

DR. RAHUL GHULE AND DR. AMOL GHULE, both sons of Mr Bhimrao Baburao Ghule having their office at Basement no. 1, Diamond Homes, CO. OP. SOC.



Limited, Bhaskar colony, opp. Times of India, M.G. Road, Naupada, Thane West-400602, Indian Inhabitants (hereinafter referred to as "SECOND PART") which expression shall unless it be repugnant to the meaning and context thereof be deemed to mean & include their heirs, Executors, Administrators and assigns of the SECOND PART:

WHEREAS the Second Party i.e. DR. RAHUL GHULE AND DR. AMOL GHULE, are the consultants, sub-contractors and service provider and they entered in to MoU in December 2020, failed and again, entered in to another Moll in September 2021 for installation and quality assurance of Clinics All the correspondences regarding these two mentioned MoUs are taken into consideration and are to be accepted already as evidences. The Second Party is on record by giving necessary acceptance for violations of both the agreements. Both agreements are entered in conjunction with Tender No. TMC\PRO\Health\937\2019\20 and PO dated 10th July 2020. The Second Party agrees all agreements between first and second parties are in complete understanding of Tender Norms, PO and Contract entered between MedOnGo and TMC. Accordingly both have entered in a Final MoU dated 26th July 2023 between MedOnGo Health Private Limited and Second Party.

WHEREAS as per pre agreed conditions mentioned in the MoUs, both parties agreed to pay other (If any dues by First party up on receipt payments from TMC) and also bills for all the previous MoUs Other bills necessary for MedOnGo Books Closure and pay back to back to them up on their inspection of authenticity of bills and also quality and norms\laws\tender checked by First Party and "Loss of Business by Second Party to First Party). Dr. Rahul Ghule and Dr. Amol Ghule



and (including Kamal Pharma, Kamal Path labs). Payments are subjected TMC (Thane Municipal Corporation) acceptance, processing and pays MedOnGo. MedOnGo in turn up conditions mentioned in this agreement pays within seven working days (After Financial Audit, Legal Audit and Deductions whichever is later) and both were agreed for the same. If there is any deduction, a proportional reduction in the payments to will be made. As mentioned above after financial and legal audits and if required arbitration. If expenses should be calculated from the start of the project including pilot. However, as per MOU-1(Cheques) and MoU-2 (Cheque), to release the payment of second party, the first party have issued security cheques as mentioned in MOU by following the due process.

Whereas certain misunderstandings arose between the parties and the both parties initiated proceedings against the other party at Concern Police departments as well as at the respective Court of Law. This is including the previous proceedings both parties lodged for embezzlement of funds by Mr. Jasim Sheik in HDFC Bank and transfer of funds from MedOnGo to Magicdil, Embezzlement by deceit by Mr. Kaushik Sharaf and Rajesh Unit Singh. However, in the Month of February 2024, meeting was held between parties and in the presence of Mr. Mahesh Patil, Balaji Krishnammagaru, Puneet Gurnani and Dr. Rahul Ghule, both the parties arrived at a settlement. The second party will go-ahead and give proofs of filing Embezzlement and Criminal Cases against Jasim Sheik, Kasuhik Sharaf and Rajesh Udit Singh and others if needed. All the notices MedOnGo served, accepted by Dr. Raghul Ghule, Dr. Amol Ghule, apologies written by emails are duly noted as they are on record.



WHEREAS the parties are executing the present Memorandum of Understanding (MOU) to record their understanding/settlement with respect to the transaction:

NOW THIS MOU RECORDS AS UNDER:-

1. The first part has already paid an amount of Rs. 25,00,000/-(Rupees Twenty-Five Lakhs) vide cheque bearing No. 000986 dated, 24/11/2023, drawn on ICICI Bank, on 12th February 2024 to the second party. Notwithstanding any audit considering the oral financial situation explained by the second party.

2. The Second Party has already submitted bills to the extent of Rs. 2,55,01,301/-(Rupees Two-Crore Fifty-Five Lacks One Thousand Three Hundred and One only) of Kamal Pharma which shall be cleared within 30 days hereof subject to verification of all bills with quantity and price by the First Party in conjunction with all the MoUs and email exchanges. On submission of bank guarantee by first party to the TMC, Rs. 1,20,00,000/- (Rupees-One Crore Twenty Lakhs) will be released to second party from sum of Rs.2,55,01,301/- (Rupees- Two Crore Fifty-Five Lakhs One Thousand Three Hundred and One only) The bills and its requirements has been subject of scrutiny from the start and all emails are on record for verification. Dr. Rahul Ghule and Dr. Amol Ghule are to send the scan copies and hard copies if required by Auditor in Bangalore.

3. The party of the first part also accepted and submitted Kamal Path Lab Outstanding of Rs.1,04,73,803/- (One-Crore Four Lakhs Seventy-Four Thousand Eight Hundred and Three) without verification. (Which was initiated unilaterally without MedOnGo and TMC approvals) to be cleared as per



TMC bill (i.e. 2nd installment), very soon and this is subject to all quality, work orders and also approvals from TMC. These bills are to be adjusted against all claims including Kamal Path Labs and as orally agreed between MedonGo and Dr. Rahul Ghule and Dr. Amol Ghule.

4. Both parties hereby agreed and confirmed that they will withdraw all the legal proceedings initiated against first party after this MoU. After getting/receiving all the rest of payments within stipulated time and as per terms and condition mentioned herein above, If both parties fails to settle the dues as per the final audit both parties as mentioned herein above, then they have again have liberty to initiate legal arbitration and if findings it's not acceptable, both parties reserve rights for legal proceedings for recovery and this MOU shall be treated as peace and parcel of the evidence. The Audit will be performed by internal Auditor and Statutory auditors of MedOnGo Health Private Limited.

5. After getting total payment of Kamal Pharma and Kamal Path Lab, first party will clear remaining Rs.25,00,000/- (Rupees- Twenty-Five Lakhs) PDC cheque to second party. As this mandatory because of cheque bounced case.

6. This M.O.U. shall be binding upon the Parties hereto and the Parties agree to be bound by their respective rights and obligations herein mentioned.

7. This M.O.U is governed by the Laws of India and if there are any disputes arises the between then the exclusive jurisdiction of the courts in Bangalore only. The headquarters, IT concerned IT Department and GST and all other statutory departments which



MedOnGo has to submit including their auditors are present in Bangalore.

8. That all the concern parties agreed and read the content of the MOU and hereby signed the same and accept the liability up on final audit to pay within time without fail.

9. If during the course of this agreement, the MedOnGo board has empowered to help second party financially when the payments get released from TMC. This is pending audits and arbitration and only if the second party agrees to all the legal norms of Audit and Arbitration.

10. The First party expects financial audit should be completed within a week of providing the bills. The legal audit to be completed within another week considering both to be happening at the same time in Bangalore.

11. Both parties can agree on neutral arbitrator if second party is not happy with first party legal team.”

10. Material on record shows that the Agreement dated 01.12.2020, as amended by the Agreement dated 26.10.2021 contains a valid and operative arbitration clause (Clause 18), stipulating that all disputes shall be resolved through arbitration and the seat of arbitration shall be at Delhi. The subsequent MoU dated 07.03.2024, relied upon by the Respondents to ouster the jurisdiction of this Court, does not supersede or novate the earlier Arbitration Agreement. The said MoU dated 07.03.2024 merely records certain commercial understandings and payment modalities and does not contain any clause expressly rescinding or substituting the arbitration clause



contained in the earlier agreements.

11. In the absence of any clear and unequivocal novation, the arbitration clause of the original contract continues to survive in terms of Section 7 of the Arbitration Act.

12. The Petitioner has duly invoked arbitration by sending the notice dated 20.12.2024 and the Respondents have failed to concur in the appointment of an arbitrator. Therefore, the pre-conditions under Section 11(6) of the Act stand satisfied.

13. Furthermore, the objection of territorial jurisdiction raised by the Respondents on the basis of the MoU is untenable. Once the parties have agreed that the seat of arbitration shall be at Delhi, this Court alone would have jurisdiction to entertain a petition for appointment of an arbitrator, as held by the Apex Court in Indus Mobile Distribution Pvt. Ltd. v. Datawind Innovations Pvt. Ltd., (2017) 7 SCC 678, and as reaffirmed by the Apex Court in BGS SGS Soma JV v. NHPC Ltd., (2020) 4 SCC 234 & Inox Renewables Ltd. v. Jayesh Electricals Ltd., (2023) 3 SCC 733.

14. In view of the fact that disputes have arisen between the parties and there is an arbitration clause in the Agreement, this Court is inclined to appoint an Arbitrator to adjudicate upon the disputes between the parties.

15. As per the Notice invoking arbitration dated 20.12.2024, the Petitioner has claimed a sum of Rs. 4,50,00,000/- as the recovery of payments made to the Respondents and their associates along with a sum of Rs. 127 crores towards damages.

16. Accordingly, Justice Hima Kohli, former Judge of the Supreme Court of India, (Mob: 9871300036) is appointed as the Sole Arbitrator to adjudicate upon the disputes between the parties.



17. The learned Sole Arbitrator shall be entitled to charge fees as per the Fourth Schedule of the Arbitration & Conciliation Act, 1996.

18. The learned Arbitrator is also requested to file the requisite disclosure under Section 12(2) of the Arbitration Act within a week of entering into reference.

19. All rights and contentions of the parties in relation to the claims/counter-claims are kept open, to be decided by the learned Arbitrator on their merits, in accordance with law.

20. Needless to say, nothing in this order shall be construed as an expression of this Court on the merits of the contentions of the parties.

21. The present petition stands disposed of in the above terms along with pending application(s), if any.

SUBRAMONIUM PRASAD, J

OCTOBER 28, 2025

Rahul