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

+ **ARB.P. 995/2024**

**FRESENIUS MEDICAL CARE DIALYSIS SERVICES INDIA
PRIVATE LIMITED.**Petitioner

Through: Mr. Deepak Biswas, Mr. Siddharth
Swain & Mr. Junaid Khan, Advs.

versus

FAMILY HEALTH CARE HOSPITAL PVT LTD.Respondent

Through: Mr. Siddharth Arora, Mr. A. Verma,
Ms. Jasleen Kaur & Mr. Yash
Dhyani, Advs.

**CORAM:
HON'BLE MR. JUSTICE JASMEET SINGH**

**ORDER
08.04.2025**

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1. This is a petition filed under section 11 of Arbitration and Conciliation Act, 1996, seeking appointment of an arbitrator for adjudication of disputes between the parties.
2. The case of the petitioner is that the petitioner entered into a Service Agreement dated 08.11.2017 with entity called "Clearmedi Health Care Private Limited" for providing dialysis services in hospital called "Clearmedi Hospital and Cancer Center". The hospital was owned by the respondent.
3. The said Agreement contains arbitration clause, being Clause No. 19.4, which reads as under:-

"19.4 Governing Law; Dispute Resolution and



Jurisdiction

- a) This Agreement shall be governed by and construed according to the laws of India.*
- b) Any dispute, controversy, claims or disagreement of any kind whatsoever between or among the Patties in connection with or arising out of this Agreement, including the interpretation or construction of any word, expression or clause contained herein, or any claim for damages or a dispute alleging fraud or nullity hereof, shall be referred for resolution, to a sole arbitrator (jointly appointed by both Parties), through arbitration to be conducted in accordance with the Arbitration and Conciliation Act, 1996, or such statutory modification thereof in force at the time of such reference or commencement of arbitration. The venue of such arbitration shall be New Delhi. All proceedings of such arbitration, including, without limitation, any awards, shall be in the English language. The award shall be final and binding on the Parties.*
- c) The Patties shall have the right to apply to a court of competent jurisdiction, within the meaning of Section 2(l)(e) of the Arbitration and Conciliation Act, 1996, or such statutory modification thereof in force at the time of such reference or commencement of arbitration, to obtain interim injunctive relief in*



respect of any dispute, pending resolution of such dispute in accordance with Clause 19.4(6)”

4. On 01.02.2020, the Agreement between the petitioner and Clearmedi was terminated and the respondent assumed the operation and management of the dialysis services.
5. Subsequently, the petitioner continued to provide the services and raised invoices under the name of “Clearmedi”. The respondent continuously informed to the petitioner that the billing was in the wrong company name and GST number and the same was to be done in the name of “Family Health Care Hospital Private Limited”.
6. The case of the petitioner is that the respondent is the assignee of Clearmedi Hospital Health Care Private Limited and hence, is bound by the arbitration clause.
7. It is the contention of Mr. Arora, learned counsel appearing for the respondent that there is no signed agreement between the petitioner and the respondent and hence, there is no Arbitration Agreement. However, he has no objection if an Arbitrator is appointed and all the rights and contentions including the above are left open to be adjudicated by the learned Arbitrator.
8. For the said reasons, the petition is allowed and the following directions are issued:-
 - i) Ms. Shyel Trehan, Senior Advocate (Mobile No. 9810163818) is appointed as a Sole Arbitrator to adjudicate the disputes between the parties.
 - ii) 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').
- iii) The remuneration of the learned Arbitrator shall be in terms of DIAC (Administrative Cost and Arbitrators' Fees) Rules, 2018.
 - 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/counter-claims and 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.
 - vii) The contention of the respondent that it is not a signatory to the Arbitration Agreement and hence, the proceedings cannot lie, will also be addressed by the Arbitrator.
9. The present petition is disposed of in the aforesaid terms.

JASMEET SINGH, J

APRIL 8, 2025/pk

Click here to check corrigendum, if any