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IN THE HIGH COURT OF DELHI AT NEW DELHI

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ARB.P. 1074/2024

MONEYWISE FINANCIAL SERVICES PVT LTDPetitioner

Through: Ms.Mehvish Khan, Mr.Aman

Choudhary and Ms.Arunima Singh, Advocates

versus

**AKQUASUN HOLIDAYS INDIA PRIVATE LIMITED THROUGH
ITS DIRECTORS AND ORSRespondents**

Through: None

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

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29.01.2025

1. By way of present petition filed under Section 11 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 a Master Loan Agreement dated 03.01.2018, Clause 10.1 of which provides that disputes arising between the parties with respect to the subject Agreement shall be resolved through arbitration by a Sole Arbitrator. It further stipulates that the seat of arbitration shall be at New Delhi.
3. Disputes having arisen between the parties, the petitioner invoked arbitration vide notice dated 20.06.2024 issued under Section 21 of the A&C Act, to which no reply has been received on behalf of the respondents.
4. Learned counsel for the petitioner submits that while respondent



Nos.1 to 3 stand served through courier, respondent No.3 has additionally been served through speed post and that the service was effected at the address mentioned in the subject Loan Agreement. She further draws the attention of the Court to the order dated 17.12.2024, wherein it is noted that the respondents have failed to appear despite service. Even today, there is no appearance on behalf of the respondents and neither any reply nor any objection to the reference to arbitration sought by the present petition has been filed.

5. Considering the fact that despite service, the respondents have chosen to not appear on multiple occasions 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.

6. 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 the Arbitral Tribunal.
- ii) Mr. Ninad Dogra, Advocate (Mob.No. 9990090052) is appointed as the Sole Arbitrator to adjudicate the disputes between the parties.
- iii) 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'). 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.
- iv) The learned Arbitrator shall furnish a declaration in terms of Section 12 of the A&C 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 on merits of the dispute of either of the parties, are left open for adjudication by the learned arbitrator. Further, the respondent shall be at liberty to raise counter-claims, if any.

vi) The parties shall approach the learned Arbitrator within two weeks from today.

MANOJ KUMAR OHRI, J

JANUARY 29, 2025

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