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

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+ O.M.P.(I) (COMM.) 294/2024

MR KETAN MALKAN

.....Petitioner

Through: Mr. Asim Vachher, Senior Advocate
with Ms. Abhiti Vachher, Mr. Akshat Vachher and
Ms. Saiba M. Rajpal, Advocates.

versus

BOSTON IVY HEALTHCARE SOLUTIONS PRIVATE LIMITED
& ORS.

.....Respondents

Through: Mr. Rajiv Nayar, Senior Advocate
with Ms. Gauri Rasgotra, Mr. Dinesh Moorjani,
Ms. Priyashree Sharma PH, Mr. Girish Ahuja, Ms.
Shubhra Sharma and Ms. Manjeera Das Gupta,
Advocates for R-1.

Mr. Dayan Krishnan, Senior Advocate with Mr.
Sukrit Seth, Mr. Sameer Rohtagi, Mr. Namit Suri,
Ms. Purnima Singh, Ms. Preetpal Singh and Mr.
Kartikey Singh, Advocates for R-2 to R-6.

Mr. Dayan Krishnan, Senior Advocate with Mr.
Vedant Kumar and Ms. Ananya Sinha, Advocates
for R-22.

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+ O.M.P.(I) (COMM.) 295/2024

MR KETAN MALKAN

.....Petitioner

Through: Mr. Asim Vachher, Senior Advocate
with Ms. Abhiti Vachher, Mr. Akshat Vachher and
Ms. Saiba M. Rajpal, Advocates.

versus

BOSTON IVY HEALTHCARE SOLUTIONS PRIVATE LIMITED

.....Respondent

Through: Mr. Rajiv Nayar, Senior Advocate
with Ms. Gauri Rasgotra, Mr. Dinesh Moorjani,
Ms. Priyashree Sharma PH, Mr. Girish Ahuja, Ms.



Shubhra Sharma and Mr. Manjeera Das Gupta,
Advocates.

CORAM:
HON'BLE MS. JUSTICE JYOTI SINGH

ORDER
30.04.2025

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1. O.M.P.(I) (COMM.) 294/2024 is preferred on behalf of the Petitioner under Section 9 of the Arbitration and Conciliation Act, 1996 ('1996 Act') *inter alia* for a restraint order against the Respondents, acting through the Board or Key Managerial Personnel from doing any acts, omissions, deeds including taking day-to-day decisions with respect to the affairs of the Respondents. Indisputably, the Shareholders Agreement dated 17.03.2022 (SHA) contains an arbitration clause 23.2.
2. O.M.P.(I) (COMM.) 295/2024 is preferred on behalf of the Petitioner under Section 9 of the Arbitration and Conciliation Act, 1996 ('1996 Act') *inter alia* for a direction to the Respondent, jointly and/or severally to furnish security for the outstanding dues under the Facility Agreements by way of bank guarantee to secure their obligations under the Agreement and for a restraint order prohibiting the Respondent from selling, disposing, alienating or creating third party interests in the movable and immovable assets, pending the furnishing of the security. Indisputably, Employment Agreement dated 02.09.2021 (EA) contains arbitration clause 12.
3. Learned Senior counsel for the Petitioner submits that Petitioner has no objection if in the present petition Court appoints the Arbitrators, referring the disputes under both the Agreements. It is further submitted that Petitioner has nominated Mr. Justice D.K. Jain, former Judge of the Supreme Court as his nominee Arbitrator.



4. Mr. Rajiv Nayar and Mr. Dayan Krishnan, learned Senior Counsels for the Respondents also submit that Respondents have no objection for referring the matter to arbitration under both the Agreements and Respondents have nominated Mr. Justice B.S. Chauhan, former Judge of the Supreme Court as their nominee Arbitrator and thereafter, the two Arbitrators can proceed to appoint the Presiding Arbitrator.
5. With the consent of the parties, disputes between the parties are referred for arbitration in respect of SHA dated 17.03.2022, which is subject matter of O.M.P.(I) (COMM.) 294/2024 as also in respect of EA dated 02.09.2021, which is subject matter of O.M.P.(I) (COMM.) 295/2024. Mr. Justice D.K. Jain, former Judge of the Supreme Court is appointed as nominee Arbitrator of the Petitioner and Mr. Justice B.S. Chauhan, former Judge of the Supreme Court is appointed as nominee Arbitrator of the Respondents. Both Arbitrators will appoint the Presiding Arbitrator.
6. Learned Arbitrators shall furnish a declaration in terms of Section 12 of the 1996 Act prior to entering upon reference. Fees of the learned Arbitrators will be in accordance with Fourth Schedule of the 1996 Act.
7. It is made clear that this Court has not expressed any opinion on the merits of the case and all rights and contentions of the respective parties are left open.
8. Petitions are disposed of in the aforesaid terms.

JYOTI SINGH, J

APRIL 30, 2025/shivam