



2025:DHC:11676



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**+ **ARB.P. 1773/2024**Date of Decision: **17.12.2025****IN THE MATTER OF:****ZAHIR ADVENTURE EXPEDITION PRIVATE LIMITED**

.....Petitioner

Through: Mr. Vinod Khanna and Mr. Pushkar
Khanna, Advs.

versus

SAVOURLISH EATERIES & ORS.

.....Respondents

Through: Mr. Bhaskar Vali, Pragya Anand and
Mr. Tarun Rajput, Advs.**CORAM:****HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV****JUDGEMENT****PURUSHAINDRA KUMAR KAURAV, J. (ORAL)****I.A. 31681/2025 (for re-listing/change the date next date of hearing)**

The Court deems it appropriate to hear this matter today itself;
therefore, the application stands disposed of.

ARB.P. 1773/2024

1. The present petition has been filed under Section 11 of the Arbitration and Conciliation Act, 1996 (hereinafter "**the Act**"), seeking the appointment of an Arbitrator to adjudicate upon the disputes that have arisen between the parties.

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2. The parties to the dispute had entered into an agreement dated 20.03.2023, wherein it was agreed to run the restaurant as a commercial business for five years from 20.03.2023 to 19.03.2028, with a possibility of extension for another five years.
3. The petitioner claims to have the right to operate one restaurant by the name of Shesh Besh Cafe situated at Manu Temple Road, Old Manali, District Kullu, Himachal Pradesh.
4. During the existence of the agreement, it appears that respondent No.2 sent an email dated 28.11.2023 to the petitioner stating that the respondents desire to vacate the said restaurant and requested to treat the said email as three month prior vacation notice.
5. Thereafter, various correspondence had taken place and as per the notice dated 02.04.2024, issued by the petitioner, the respondents were called upon to release the restaurant booking amount of Rs.1,65,000/- per month from 20.03.2024 till the date of actual peaceful handing over of the physical possession of the restaurant along with damages of Rs.19,87,507/- towards the cost of entire inventory in case, the inventory is not handed over to the petitioner in the same manner or condition.
6. A further sum of Rs.4,00,000/- towards the cost of damages of tin roof cealing of the restaurant, which allegedly collapsed due to negligence of the respondents by non-removing the snow from the tin sheds in the winter season in Manali, was called upon. The respondents sent the reply to the legal notice on 26.04.2024 and the averments made in the notice by the petitioner were disputed.
7. Various assertions have been made during the course of hearing by learned counsel appearing for the respondents, and he submits that the

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agreement itself was perpetuated on fraud and the same renders the agreement as void. He, therefore, contends that even the nature of the dispute sought to be agitated on the basis of the agreement falls outside the scope of the agreement. He also places reliance on the decisions in the case of **Rashid Raza v. Sadaf Akhtar**¹ and **Avitel Post Studioz Ltd & Ors. v. HSBC PI Holdings (Mauritius) Limited**². He, therefore, submits that the instant petition is misconceived and deserves to be dismissed.

8. On the other hand, learned counsel appearing for the petitioner takes this Court through clause 23 of the petition and submits that in view thereof, the objections being raised by the other side can be considered by the concerned Arbitrator.

9. I have considered the submissions made by learned counsel appearing for the parties and have perused the record.

10. It remains undisputed that an agreement was signed between the parties, which contains Clause 23, which is extracted as under:

“It is mutually agreed between both the parties that any dispute arising between the parties out of or relating to the connection, meaning, scope, operation or effect of the present Agreement whether arising during the current period or after the completion of the Agreement in regard to any matter or thing of whatsoever nature arising out of this Agreement or in/connection therewith shall be referred to sole arbitrator who shall conduct the arbitral proceeding in accordance with provision of the Arbitration and Conciliation Act, 1996, or any modification or any Succeeding Act. The proceeding shall be conducted in English and held in New Delhi. The Decision of the sole arbitrator shall be final and binding on both the parties.”

11. The Court in **Axis Finance Limited v. Mr. Agam Ishwar Trimbak**³ on 08.08.2025 has, in detail, considered the scope of scrutiny at the stage of

¹ AIR ONLINE 2019 SC 1046.

² 2020 SCC OnLine SC 656.



Section 11 of the Act.

12. After considering the decisions of the Supreme Court in the case of *Vidya Drolia and Ors. v. Durga Trading Corporation*⁴, *NTPC Ltd. v. M/s. SPML Infra Ltd.*⁵, *In Re: Interplay Between Arbitration Agreements Under Arbitration and Conciliation Act, 1966 and Stamp Act, 1899*⁶, *SBI General Insurance Co. Ltd. v. Krish Spinning*⁷ and *Bihar State Mineral Development Corporation and Anr v. Encon Builders (I) (P) Ltd.*⁸, this Court at paragraph no. 44 of *Axis Finance Limited*, recorded its conclusions in the following words:

“44. The conclusions reached by this Court are as under:

- a. The scope of inquiry under Section 11 and Section 8 of the Act are fundamentally different. While the former is concerned with the existence of an arbitration agreement; the latter involves an examination of the validity and existence of an arbitration agreement.
- b. The scope of inquiry under Section 11(6) of the Act is legislatively curtailed by Section 11(6A), which serves as the Laksham Rekha, beyond which a Court must not traverse.
- c. The validity and existence of an arbitration agreement are to be examined at the touchstone of Section 7 of the Act where issues pertaining to arbitrability of the dispute have no place.
- d. To meet the existence requirement of Section 11(6A) a Court must *prima facie* be satisfied that an agreement exists between parties that when a dispute or a category of disputes arise between them, the same shall be decided by a private adjudicator/tribunal whose decision shall bind the parties so reaching an agreement. Once this requirement is met, the Court concerned must refer the parties to arbitration.
- e. In the facts of the instant case this Court is satisfied that there exists an arbitration agreement between the petitioner and the respondent. The requirements of Section 11(6A) have been satisfied and resultantly this Court is inclined to appoint an

³ 2025:DHC:7477

⁴ (2021) 2 SCC 1

⁵ (2023) 9 SCC 385

⁶ (2024) 6 SCC 1

⁷ 2024 SCC OnLine SC 1754

⁸ (2003) 7 SCC 418.

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Arbitrator to adjudicate upon the disputes between the parties.

13. In view of the aforesaid, the nature of the grievance being raised by the respondents is both *per se* capable of being adjudicated by the Arbitrator, and given the wide scope of adjudication which the arbitrator can undertake, is better left to be agitated before the arbitrator.

14. Reserving the liberty in favour of the respondents, the Court does not find any impediment in appointing the Arbitrator.

15. In view of the fact that disputes have arisen between the parties and there is an arbitration clause in the contract, this Court appoints Ms. Chitransha Singh Sikarwar, Advocate (Mobile No.7415121229, e-mail id: chitransha.sikarwar@gmail.com) as the sole Arbitrator.

16. The arbitration would take place under the aegis of the Delhi International Arbitration Centre (DIAC) and would abide by its rules and regulations. The learned Arbitrator shall be entitled to fees as per the Schedule of Fees maintained by the DIAC.

17. The learned arbitrator is also requested to file the requisite disclosure under Section 12 (2) of the Act within a week of entering on reference.

18. The registry is directed to send a receipt of this order to the learned arbitrator through all permissible modes, including through e-mail.

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 opinion of this Court on the merits of the controversy between the parties. Let a copy of the said order be sent to the Arbitrator through electronic mode as well.

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21. Accordingly, the instant petition stands disposed of.

PURUSHAINDRA KUMAR KAURAV, J
DECEMBER 17, 2025/p/ksr

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