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

+ **ARB.P. 1824/2024**

REEMA SINGAL AND ORS

.....Petitioners

Through: Mr. Kapil Gupta, Mr. Ravi Kumar,
Advocates

versus

M/S NOVA REALTY

.....Respondent

Through: Mr. Sanjay Rawat, Advocate

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER

23.01.2025

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1. The Petitioners have approached this Court under Sections 11(5) & 11(6) of the Arbitration and Conciliation Act, 1996 seeking appointment of an Arbitrator to adjudicate the disputes between the parties.
2. It is stated that a Lease Deed dated 19.03.2024 was executed between the Petitioners and the Respondent for a period of five years, effective from 01.02.2024 to 31.01.2029 for a monthly rent @220/- per sq. ft. Along with GST @18% which comes to Rs.3,12,000/- with a lock-in period for two years. It is stated by learned Counsel for the Petitioners that since there is non-payment of rent, the Lease Deed dated 19.03.2024 has to be terminated and thereafter, apart from the payment of balance rent, Respondent has to be evicted from the property.
3. The Apex Court in Vidya Drolia v. Durga Trading Corporation, (2021) 2 SCC 1, has observed as under:



"79. Landlord-tenant disputes governed by the Transfer of Property Act are arbitrable as they are not actions in rem but pertain to subordinate rights in personam that arise from rights in rem. Such actions normally [Ed. : Certainly in those cases where the dispute only affects the parties to the arbitration clause, third-party rights would not be affected, as in the facts of the present case. It is in such cases that "such actions under the TPA normally would not affect third-party rights or have erga omnes effect". However, one may consider cases for instance, where a sub-tenancy exists or where the head lessee has taken a mortgage on the lease, and the landlord invokes the arbitration clause against the head lessee seeking to terminate the head lease, can the sub-tenant or mortgagee of the head lessee seek to be impleaded in the arbitration proceedings? For termination of the head lease would also extinguish the rights of the sub-tenant and the mortgagee of the head lessee. The situations posited are relatively simple ones. Often there are numerous prior and subsequent transferees who might be affected by the result of a dispute between a landlord and tenant, or even between other transferees. In such complex situations involving prior and subsequent transfers, it would appear that the matter would be non-arbitrable as it would appear to satisfy the first two tests of non-arbitrability laid down herein—see Shortnotes B and C. In a case where the mortgagee is covered by the RDB Act and the Sarfaesi Act, it might be rendered non-arbitrable by virtue of the fourth test as well—see Shortnotes E and G.] would not affect third-party rights or have erga omnes effect or require centralised adjudication. An award passed deciding landlord-tenant disputes can be executed and enforced like a decree of the civil court. Landlord-tenant disputes do not relate to inalienable and sovereign functions of the State. The provisions of the Transfer of Property Act do not expressly or by necessary implication bar



arbitration. The Transfer of Property Act, like all other Acts, has a public purpose, that is, to regulate landlord-tenant relationships and the arbitrator would be bound by the provisions, including provisions which enure and protect the tenants.

80. In view of the aforesaid, we overrule the ratio laid down in Himangni Enterprises [Himangni Enterprises v. Kamaljeet Singh Ahluwalia, (2017) 10 SCC 706 : (2018) 1 SCC (Civ) 82] and hold that landlord-tenant disputes are arbitrable as the Transfer of Property Act does not forbid or foreclose arbitration. However, landlord-tenant disputes covered and governed by rent control legislation would not be arbitrable when specific court or forum has been given exclusive jurisdiction to apply and decide special rights and obligations. Such rights and obligations can only be adjudicated and enforced by the specified court/forum, and not through arbitration."

4. Learned Counsel appearing for the Respondent draws attention of this Court to Clause 16.1.1A of the Lease Deed dated 19.03.2024 to state that the disputes have yet not arisen because the procedure prescribed under the said Clause has not been followed.
5. This is a point on which the Arbitral Tribunal has to take a decision. This Court is not making any observation in this aspect.
6. In view of the fact that disputes have arisen between the parties, and there is an Arbitration Clause in the Lease Deed dated 19.03.2024, this Court is inclined to appoint an Arbitrator to adjudicate upon the dispute which have arisen between the parties.
7. Accordingly, Ms. Vansha Sethi Suneja, Advocate (Mob. No.9899030007) is appointed as a Sole Arbitrator to adjudicate upon the



disputes between the parties.

8. 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.

9. The learned Arbitrator is also requested to file the requisite disclosure under Section 12(2) of the 1996 Act within a week of entering on reference.

10. 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 its own merits, in accordance with law.

11. As far as the arbitrability is concerned, learned Counsel for the Respondent is directed to move an appropriate application under Section 16 of the Arbitration and Conciliation Act, 1996 before the Arbitrator.

12. It is made clear this Court has not made any observation on the merits of the case and as to whether Respondent No.2 is a necessary party or not.

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

SUBRAMONIUM PRASAD, J

JANUARY 23, 2025

RJ