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

+ **ARB.P. 1858/2024**

M/S ESSEL RESORTS PVT LTDPetitioner

Through: Mr. Harshit Jain, Mr. Rahul Kumar
and Mr. Shubham Singh, Advs.

versus

SMT KAMLA DEVI AND ORSRespondents

Through: Mr. Vikas Goel, Mr. Sudesh Kumar
Goyal, Mr. Harmanbir Singh Sandhu
and Mr. Wanglen Ngangom, Advs.

CORAM:

HON'BLE MR. JUSTICE ANISH DAYAL

ORDER

03.03.2025

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1. This petition has been filed under Section 11(6) of the Arbitration & Conciliation Act, 1996 seeking appointment of the arbitrator in respect of disputes which have arisen, under the rent agreement dated 13th November 2020, executed between the parties.
2. The petitioner is seeking possession of the property which forms subject matter of this agreement, as also recovery of monies *inter alia* mesne profits and damages.
3. Counsel for respondent Nos.1 & 2 states that while they are signatories to the said agreement, respondent No.3 is not.
4. He states that respondent No.3 does not have any privity of contract with the petitioner and, therefore, cannot be roped in, into the arbitration.
5. Respondent No.3 was a sub-lessee of respondent Nos.1 and 2 under



sub-lease dated 19th September 2022.

6. Needless to state, this aspect can be considered before the Arbitrator, as also pleas which the respondent Nos.1 and 2 seeks to press.

7. Accordingly, the Arbitrator is appointed with respect to disputes between petitioner and respondent Nos.1 and 2.

8. Upon a conspectus of the averments contained in the petition and the submissions made, this Court is of the opinion that there is a valid and subsisting arbitration agreement between the parties, within the territorial jurisdiction of this Court, the disputes stated to have arisen between the parties do not appear *ex facie* to be non-arbitrable.

9. Considering the aforesaid, the petition is allowed. The following directions are issued:

- i) *Ms. Neelakshi Bhadauria, Advocate* (Mob. No. 8053461050) is appointed as 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 ('**DIAC**'). The remuneration of the learned Arbitrator shall be in terms of the Fourth Schedule of the A&C Act.
- iii) The Sole Arbitrator is requested to furnish a declaration in terms of Section 12 of the A&C Act prior to entering into the reference.
- iv) It is made clear that all the rights and contentions of the parties, including the arbitrability/maintainability of any of the claim, any other preliminary objection, as well as claims



on merits of the dispute by either of the parties are left open for adjudication by the Sole Arbitrator.

v) The parties shall approach the Sole Arbitrator within two weeks.

10. The petition is disposed of.

11. Order be uploaded on the website of this Court.

ANISH DAYAL, J

MARCH 3, 2025/MK/kp