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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **O.M.P.(I) (COMM.) 412/2024, I.A. 48082/2024**

SMC INSURANCE BROKERS PVT LTDPetitioner

Through: Mr. Adhitya Srinivasan, Mr. Rishabh Kanojiya, Mr. Srajan Tyagi, Mr. Pankaj Kumar and Mr. Ankur Das, Advocates.

versus

ANUJ MANGALRespondent

Through: Mr. Sudhir Kumar, Advocate (Through V.C.) alongwith respondent in person.

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

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04.02.2025

1. By way of present petition filed under Section 9 of the Arbitration and Conciliation Act, 1996 (hereinafter, referred to as the 'A&C Act'), the petitioner seeks the following prayers :-

- “a. cease and desist from soliciting any client or customer of the Petitioner;*
- b. cease all interaction (or other dealing) with any person or entity who was a client or customer of the Petitioner as on 15.12.2023;*
- c. cease and desist from soliciting any employee of the Petitioner;*
- d. immediately return to the Petitioner all data and intellectual property stolen from the Petitioner and submit an affidavit to certify compliance of the same;*
- e. restore all customer contact details to the Petitioner and submit an affidavit to certify compliance of the same;*
- f. cease and desist from using or exploiting any data and intellectual property of the Petitioner including any list of*



customers or clients in any way, shape or form;
g. cease and desist from divulging any business information about the Petitioner to any third party;
h. Order and direct the Respondent to pay to or deposit with the Petitioner (or with the Registrar of this Hon'ble High Court) an amount of ₹2,46,03,439 (being the amount in dispute in the present arbitration) pending the hearing and final disposal of the arbitration;
i. Direct the Respondent to make a declaration of his assets on affidavit; ”

2. Learned counsel for the petitioner submits that the respondent was appointed to the post of *Vice President - General Insurance Corporate Department* in the petitioner's company pursuant to Appointment Letter dated 24.01.2015. It is the petitioner's claim that after leaving the office of the petitioner, the respondent breached the post-termination covenants included in the respondent's aforesaid Appointment Letter.

At this stage, learned counsel, on instructions, submits that Clause 28 of the said Appointment Letter provides for resolution of disputes by a Sole Arbitrator and accordingly, prays that the disputes between the parties be referred to the Arbitral Tribunal comprising of Sole Arbitrator. It is further prayed that the present petition filed under Section 9 of the A&C Act be treated as an application under Section 17 of the A&C Act.

3. Learned counsel for the respondent, on instructions, submits that without prejudice to his rights and contentions related to the objections taken to the aforesaid Appointment Letter dated 24.01.2015, the respondent has no objection to the referral of the disputes to the Arbitral Tribunal. He, however, prays that liberty be granted to raise all contentions including filing of counter claim, if any, before the learned Arbitral Tribunal.



4. Considering that both the parties have consented to the reference of the disputes to the Arbitral Tribunal, the present petition is treated as an application under Section 17 of the A&C Act and disposed of with the following directions : -

- i) The disputes between the parties under the subject Appointment Letter are referred to the Arbitral Tribunal.
- ii) Mr. Dhruv Tamta, Advocate (Mob. No. 9899989917; email: tamtaadvocates@outlook.com) 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 on the existence and validity of the appointment letter, arbitrability of any of the claim/counter-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.
- vi) The parties shall approach the learned Arbitrator within two weeks from today.

5. The pending application is also disposed of accordingly.

MANOJ KUMAR OHRI, J

FEBRUARY 4, 2025/ga