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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **ARB.P. 2120/2024**
SMT VANDANA BAGLAPetitioner
Through: **Mr. Amit Kumar Pandey, Adv.**
versus
M CARS STUDIO & ORS.Respondents
Through: **Mr. Siddhant Nath, Ms. Aayushi Jain,**
Mr. Bhavishya Makhija, Mr. Amaam
Khan, Adv.

CORAM:

HON'BLE MR. JUSTICE JASMEET SINGH

ORDER

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07.04.2025

1. This is a petition filed under Section 11(6) of the Arbitration and Conciliation Act, 1996 ("*the Act*") seeking appointment of an arbitrator for adjudication of disputes between the parties.
2. The brief facts of the case as per the petitioner are that the property in question, namely C-576, Ground Floor, Saraswati Vihar, Pitampura, Delhi-110034, belongs to the husband of the petitioner, Mr. Devender Bagla, who leased the property to the daughter of the petitioner, Ms. Shruti Bagla, for a period of 9 years *vide* lease agreement dated 20.06.2018.
3. On 29.10.2020, the daughter of the petitioner sub-leased the said property to the respondents for a period of 5 years.
4. On 11.05.2022, the husband of the petitioner gifted the said property to the petitioner *vide* Gift Deed dated 11.05.2022.
5. On 14.11.2022, the petitioner sent an affidavit to the respondent for cancellation of the sub-lease.
6. On 13.12.2022, the petitioner issued an eviction notice to the



respondents followed by a suit for recovery of possession and mesne profits.

7. It is pertinent to mention that the suit was titled “**Smt. Vandana Bagla versus M/S M Cars Studio and Himanshu Vashisht**”.
8. In the said suit, the respondent filed an application under Section 8 of the Act, wherein the para 3 and 4 read as under:

“3. That the Clause 17 of Lease Agreement dated 29.10.2020 envisages that in case any dispute arises between the parties of lease agreement the same shall be referred to mutually agreed sole arbitrator or through court of law. The Clause 17 of registered Lease Agreement dated 29.10.2020 is reproduced hereunder:

“17. That in case any dispute arises between the LESSOR and LESSEE then the said dispute will be referred to mutual agreed by sole arbitrator or through the court of law whose decision will be final and binding on both the parties.”

4. That as per registered Lease Agreement dated 29.10.2020 the period of lease was for five years w.e.f. 01.11.2020 further the Lease Agreement dated 29.10.2020 is a registered document thereby fulfilling the essential ingredients of Arbitration Agreement. It is therefore prayed that this Hon'ble Court be pleased to refer the present dispute between the parties to Arbitration for which purposes the present is being moved.”

9. Based on the said application, the suit was disposed of vide the order



dated 08.08.2024. The said order was challenged by the petitioner *vide* CM(M) 3551/2024, which was dismissed on the same date.

10. Thereafter, the petitioner filed notice invoking arbitration on 16.10.2024.

11. The registered lease agreement dated 29.10.2020 contains an arbitration clause, being clause No. 17 which reads as under:

“17. That in case any dispute arises between the LESSOR and LESSEE then the said dispute will be referred to mutual agreed by sole arbitrator or through the court of law whose decision will be final and binding on both the parties.”

12. Hence, the present petition.

13. Mr. Nath, learned counsel for the respondents, states that a reply has been filed, however, the same is not on record. Thus, a copy of the reply has been handed over in Court today, which is taken on record.

14. Most of the issues in the petition are concerning the factual matrix of the case which are not relevant.

15. However, the only relevant issue for determination by this Court, raised in the reply, is that there is no privity of contract between the petitioner and the respondents and there is no valid and subsisting arbitration agreement between the two.

16. He states that the lease agreement dated 29.10.2020 contains the arbitration clause, which admittedly is executed between the daughter of the petitioner and the respondents.

17. I have heard learned counsel for the parties and perused the material available on record.



18. Section 7 of the Act defines an arbitration agreement, which reads as under:

“7. Arbitration agreement.—(1) *In this Part, “arbitration agreement” means an agreement by the parties to submit to arbitration all or certain disputes which have arisen or which may arise between them in respect of a defined legal relationship, whether contractual or not.*

(2) *An arbitration agreement may be in the form of an arbitration clause in a contract or in the form of a separate agreement.*

(3) *An arbitration agreement shall be in writing.*

(4) *An arbitration agreement is in writing if it is contained in—*

(a) a document signed by the parties;

(b) an exchange of letters, telex, telegrams or other means of telecommunication including communication through electronic means which provide a record of the agreement; or

(c) an exchange of statements of claim and defence in which the existence of the agreement is alleged by one party and not denied by the other.

(5) *The reference in a contract to a document containing an arbitration clause constitutes an arbitration agreement if the contract is in writing and the reference is such as to make that arbitration clause part of the contract.”*

19. On perusal, I am of the view that even though there is no clear



agreement between the petitioner and the respondents, the chain of events shows that the arbitration agreement is contained in the documents exchanged between the parties.

20. It is the petitioner who had filed the suit for eviction against the respondents. At that time, the respondents very well knew that the lease agreement dated 29.10.2020 was executed between the daughter of the petitioner and the respondents.
21. Despite the same, the respondents moved an application under Section 8 of the Act, wherein they clearly stated in para Nos. 4 and 5 that there is an arbitration agreement between the parties and hence, the parties should be referred to arbitration.
22. Thereafter, based on the said averments, the suit filed by the petitioner was dismissed and CM(M) 3551/2024 challenging the said order did not find favour with the court.
23. Today, in a Section 11 petition under the Act, the respondents state that there is no arbitration clause and the remedy is to file a suit.
24. Therefore, if the defence of the respondents is to be considered that would leave the petitioner remediless in the present case. Hence, I am unable to appreciate the contentions of the respondents.
25. Even otherwise, I am satisfied that there is an arbitration clause as is borne-out from the above documents/pleadings filed in the Court.
26. For the said reasons, the petition is allowed and the following directions are issued:-
 - i) Ms. Sakshi Popli, Advocate (Mob. No. 9811222569) is appointed as a 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”).
 - iii) The remuneration of the learned Arbitrator shall be in terms of DIAC (Administrative Cost and Arbitrators’ Fees) Rules, 2018.
 - iv) The learned Arbitrator is requested to furnish a declaration in terms of Section 12 of the Act prior to entering into the reference.
 - v) It is made clear that all the rights and contentions of the parties, including as to the arbitrability of any of the claim, any other preliminary objection, as well as claims/counter-claims and 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.
27. The present petition is disposed of in the aforesaid terms.
28. The reply filed by the respondents is taken on record.

JASMEET SINGH, J

APRIL 7, 2025/sp

[Click here to check corrigendum, if any](#)