



2024:DHC:9334



\$~33

*

IN THE HIGH COURT OF DELHI AT NEW DELHI

%

Date of Decision: 29.11.2024

+

ARB.P. 1710/2024**CREMICA FOOD PARK PRIVATE LIMITED**PetitionerThrough: Mr. Saransh Garg, Adv. (through v/c)
versus**M/S TRUSTABLE FOODS INDIA PVT LTD**Respondent

Through: Mr. Rahul Kochar, Adv.

CORAM:**HON'BLE MR. JUSTICE SACHIN DATTA****SACHIN DATTA, J. (ORAL)**

1. The present petition under Section 11(6) of the Arbitration and Conciliation Act, 196 (hereinafter '*the A&C Act*') seeks the constitution of an arbitral tribunal to adjudicate the disputes between the parties.
2. The disputes between the parties have arisen in context of a Lease Deed dated 11.09.2018, by virtue of which, land admeasuring 4551 square mtrs located at Plot no.3 & 4 at Hect 0-45-51 Hect Khewat, No. 74 min Khautani no.86min Kharsa No 3545 land measuring in 00-38-86; out of share 422/1943; land measuring 00-08-44 hect Khewat, No. 156 min Khautani, No.180 min Kharsa No 3556; land measuring in 00-44-47 Hect, Out of share 140/4447; land measuring 00-01-40 hect Khewat. No. 172min Khautani, No.198 min Kharsa No 3557; land measuring in 00-40-60 Hect. Out of share 1573/2030; land measuring 00-31-46, hect Khewat. No.229 min Khautani.. No.257min Kharsa No 3558; land measuring in 00-70-13 Hect. Out of share 421/7013; land measuring 00-04-21 hect Jamabandi year



2012-2013 Village Singan alsia Sur Kalan Sub-Tehsil Dulehar Distt. Una H.P Village Singha, Tehsil Haroli (hereinafter '*subject property*') was leased out to the respondent for setting up a 'Mega Food Park' for the purpose of manufacturing, processing and storage of food and agro-processing.

3. Disputes between the parties have arisen on account of non-payment of the outstanding monetary entitlements of the petitioner under the said lease deed, for which a demand notice dated 05.02.2024 was sent by the petitioner.

4. Clause 9 of the said lease deed contains the arbitration clause and reads as under:-

"9. JURISDICTION AND ARBITRATION

9.1 This lease deed shall be construed and interpreted in accordance with and governed by the laws of India and the courts at New Delhi/Himachal Pradesh shall have jurisdiction over all matters arising out of or relating to this lease deed.

9.2 All dispute and differences in relation to the applicability, interpretation, rights and obligation of the parties hereunder and/or arising under these presents including various termination clause(s) as mentioned above shall be referred to a sole arbitrator mutually decided by both the parties, within 30(thirty) days from the date of receipt of a request of nomination of sole arbitrator, the director of both, lessor and lessee shall, jointly nominate a sole arbitrator and issue communication in respect of the same to the parties. In case the sole arbitrator is not nominated within the stipulated herein above, the parties will be at liberty to invoke the provision of the Arbitration and Conciliation Act, 1996 and any subsequent amendment thereto or enactment(s) in substitution thereof, for appointment of sole arbitrator.

9.3 The arbitral proceedings shall be conducted in New Delhi, in English language and the parties agree that, the arbitral award shall be binding and enforceable against both the parties.

9.4 During the arbitration, the parties shall continue to fulfil their respective obligations under this lease deed except for such obligations, which are the subject matter of the arbitration"

5. Disputes having arisen, a notice invoking arbitration dated 24.04.2024 was issued by the petitioner; proposing the names of two persons, any of



whom, could be appointed as a sole arbitrator to adjudicate the disputes between the parties. A reply dated 23.05.2024 to the aforesaid notice was sent by the petitioner, refuting the claims raised by the petitioner in the invocation notice, objecting to the sole arbitrator being unilaterally appointed by the petitioner as well as seeking time to file a detailed reply. That a detailed reply was sent by the respondent on 28.08.2024, refuting the claims raised by the petitioner in its invocation notice, on their merits as well as raising a claim of its own under the said lease deed.

6. Since no further communications were exchanged and the parties were unable to mutually agree to the appointment of a Sole Arbitrator to adjudicate the disputes between the parties, the present petition has come to be filed.

7. Learned counsel for the respondent does not dispute the existence of the arbitration agreement and accedes to the appointment of an independent Sole Arbitrator by this Court, to adjudicate the disputes between the parties.

8. Accordingly, Mr. Raman Yadav, Advocate (Mob. No. +91 9999345388) is appointed as the Sole Arbitrator to adjudicate the disputes between the parties.

9. The respondent shall be at liberty to raise appropriate objections as regards jurisdiction / arbitrability which shall be considered by the arbitrator in accordance with law.

10. The respondent shall also be at liberty to file counter-claims before the learned Sole Arbitrator.

11. The learned Sole Arbitrator shall be entitled to fee in accordance with the IVth Schedule of the A&C Act; or as may otherwise be agreed to between the parties and the learned Sole Arbitrator.



2024:DHC:9334



12. The learned Sole Arbitrator may proceed with the arbitration proceedings subject to furnishing to the parties requisite disclosure as required under Section 12 of the A&C Act.

13. Needless to say, nothing in this order shall be construed as an expression of opinion of this court on the merits of the case.

14. The present petition stands disposed of in the above terms.

SACHIN DATTA, J

NOVEMBER 29, 2024