

(2022) 04 DEL CK 0093

In the Delhi High Court

Case No : Arbitration Petition No. 1169 Of 2021

Leaseplan India Private Limited

APPELLANT

Vs

Sagar Tour And Travels & Anr

RESPONDENT

Date of Decision : 13-04-2022

Acts Referred:

Arbitration And Conciliation Act, 1996 — Section 12

Citation : (2022) 04 DEL CK 0093

Hon'ble Judges : Sanjeev Sachdeva, J

Bench : Single Bench

Advocate : Paritosh Budhiraja

Final Decision : Disposed Of

Judgement

Sanjeev Sachdeva, J

1. Petitioner seeks appointment of an arbitral tribunal in terms of lease agreement dated 24.04.2018 particularly clause 10.2.

2. Clause 10.2 reads as under:-

10.2 (i) Arbitration:

All disputes, differences, claims and demands arising under pursuant to or concerning this Agreement shall be referred to Arbitration in accordance with the provisions of the Arbitration & Conciliation Act, 1996 or any statutory amendment or re amendment of re-enactment thereof, subject to following rules:

(a) Arbitration shall be conducted by a sole arbitrator to be appointed by LPIN.

(b) The language of arbitration shall be English and place of arbitration shall be Delhi.

(c) The respective costs of arbitration shall be borne equally by the parties in the first instance, however, the successful party shall be entitled to the costs of arbitration including legal and recovery costs.

(d) The award shall be speaking award and shall be binding on the parties.

(ii) Jurisdiction:

Subject to 10.2 (i), the law of India shall govern this Agreement. The courts in New Delhi shall have exclusive jurisdiction in respect of any matter, claim or dispute arising out of or in any way, relating to this Agreement.”

3. Notice in the petition was ordered to be issued on 02.12.2021, returnable on 05.01.2022.

4. On 05.01.2022 the Court has recorded that respondent No.1 was served, however, none appeared for respondent No.1 and service report qua respondent No.2 was awaited. Thereafter fresh notice was directed to be issued to the respondent No.2, returnable for 25.02.2022 wherein again notice was directed to be issued to the respondent No.2, returnable for today.

5. The record shows that respondent No.2 is the sole proprietor of respondent No.1 and respondent No.1 has been served through its sole proprietor.

6. Perusal of the document shows that the summon sent through the process server have been received by one Surinder with a mobile number 8010004647. Though the signatures on the document as well as the returned summons are different, however there is nothing on record to contradict the report of the process server.

7. Further it is observed that the notices sent through registered post have also been delivered by the postal authorities. One of the summons also bears the name of the son of the respondent i.e. Ankush who is alleged to have been served on 09.04.2022.

8. I am satisfied that respondent has been duly served.

9. None appears for the respondent despite service. Respondent is proceeded ex parte.

10. Accordingly, in view of the above, the petition is allowed.

11. The disputes are referred to the Delhi International Arbitration Centre (DIAC), which would appoint an arbitrator to arbitrate the disputes. The arbitration shall take place under the aegis of the DIAC in accordance with its rules and regulations.

12. The arbitrator would be entitled to charge fees in accordance with the schedule of fee stipulated by the DIAC.

13. The arbitrator shall furnish the requisite disclosure under section 12 of the Arbitration and Conciliation Act, 1996 within one week of entering reference.

14. Petition is disposed of in the above terms.