2026:DHC:9235

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

% ***Judgment pronounced on: 16.10.2026***

\# **CNR No.DLHC010319852026**

\+ **ARB.P. 1208/2026**

PACIFIC MAINTENANCE SERVICES PRIVATE LIMITED

.....Petitioner

Through: Mr. Adil Vasudeva, Ms. Jigyasa Prashar, Advs. and Mr. Sanjay K. Chauhan, AR.

versus

ADDITIONAL TECHNIQUE HAIR AND BEAUTY.....Respondent

Through: Advocate (appearance not given)

CORAM:
HON'BLE MR. JUSTICE SACHIN DATTA

JUDGMENT

1. The present petition has been filed by the petitioner under Sections 11(5) and 11(6) of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as "*the A&C Act*") seeking appointment of an independent Sole Arbitrator in terms of Article 12 of the Maintenance and Services Agreement dated 10.04.2024 (hereinafter referred to as "*the MSA*") executed between the parties.

2. The petitioner/ Pacific Maintenance Services Private Limited, is a company incorporated under the provisions of the Companies Act, 1956 and is engaged in providing maintenance services in respect of common areas, facilities and infrastructure of commercial properties, including Pacific Mall, Sahibabad.

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3. Respondent no.1, M/s Additional Technique Hair and Beauty, is a proprietorship concern of which Ms. Meenu is the sole proprietor. Respondent no.1 is stated to be the occupant of Shop No. UB-3B, Upper Basement Floor, Pacific Mall, Ghaziabad, whereas the respondent no.2/ Ms. Rajni Nainani is the allottee/ absolute owner of the said premises.

4. The respondents had entered into a License Agreement dated 28.03.2024 in respect of the aforesaid premises. Pursuant thereto, the petitioner entered into the MSA dated 10.04.2024 with the respondents, whereunder the petitioner was engaged for providing and funding maintenance services in respect of the common areas, facilities and infrastructure of the said mall.

5. Under Article 5 of the MSA, the respondents were liable to pay the maintenance charges as stipulated therein. Article 7 further provided for payment of the maintenance charges within the prescribed timelines, together with interest, in case of any delay. In terms of Article 7.10, the liability of respondent nos.1 and 2 towards payment of maintenance and other charges was agreed to be joint and several. The said Article reads as under:

> *"7.10. In case the OCCUPANT fails to pay any charges including but not limited to CAM/ Electricity / Rentals or any other dues related the Premise , the same shall be payable by Allottee to the Maintenance Agency / Developer. Further, without prejudice to other rights, the Maintenance agency/ Developer is entitled to recover such charges from the Allotte / Occupant by initiating necessary action including disconnection of electricity as per provisions mentioned in this agreement. The Allottee/Occupant shall be jointly and severally liable and responsible towards payment of all such dues to the Maintenance agency."*

6. Disputes have arisen between the parties on account of alleged non-payment of maintenance and utility charges. It is the case of the petitioner, that, as on 18.04.2026, a sum of Rs.4,53,360.58/- was outstanding towards maintenance and utility charges, exclusive of interest. Despite repeated demands and a formal legal notice dated 20.04.2026, the alleged dues were not cleared by the respondents.

7. Since the disputes could not be amicably resolved, the petitioner invoked arbitration by notice dated 25.05.2026 under Article 12 of the MSA and called upon the respondent to consent to the appointment of one of the three proposed retired Additional District Judges as the Sole Arbitrator. The notice granted 30 days for conveying such consent. The said period expired on 25.06.2026 without any response or consent from the respondent, resulting in the filing of the present petition.

8. Article 12 of the MSA, which contains the arbitration agreement between the parties, reads as under:

> *"ARTICLE 12: ARBITRATION*
>
> *12.1 All disputes, difference or disagreement arising out of, in connection with or in relation to this Agreement shall be mutually discussed and settled between the Parties.*
>
> *12.2 All disputes, difference or disagreement arising out of, in connection with or in relation to this Agreement, which cannot be amicably settled shall be finally decided by arbitration to be held in accordance with the provisions of the Arbitration and Conciliation Act, 1996. Any arbitration pursuant hereunder shall be a domestic arbitration under the applicable law.*
>
> *12.3 The venue of arbitration shall be Delhi and the language of arbitration shall be English."*

9. The existence of the arbitration agreement is evident from a bare perusal of Article 12 of the MSA. The disputes raised by the petitioner arise

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out of the contractual obligations contained in the MSA and are, therefore, *prima facie* referable to arbitration. The pre-arbitration requirement of mutual discussion and settlement having failed, and the respondent having failed to concur in the appointment of a Sole Arbitrator despite invocation of the arbitration clause, the occasion for constitution of the arbitral tribunal has arisen.

10. At this stage, this Court is required to undertake the limited examination contemplated under Section 11 of the A&C Act. The existence of a valid arbitration agreement being apparent from the MSA, and there being no impediment to reference of the disputes to arbitration, the petition merits consideration.

11. Since the existence of the arbitration clause is evident from a bare perusal of the contract, there is no impediment to constituting an arbitral tribunal for adjudicating the disputes between the parties, as mandated in terms of the judgments of Supreme Court in ***SBI General Insurance Co. Ltd. v. Krish Spinning***, (2024) 12 SCC 1 and ***Interplay Between Arbitration Agreements under Arbitration Act, 1996 & Stamp Act, 1899, In re***, (2024) 6 SCC 1. The said legal position has also been subsequently reiterated and followed by the Supreme Court in ***Aslam Ismail Khan Deshmukh v. ASAP Fluids Private Limited & Anr.***, (2025) 1 SCC 502 and ***Maharashtra State Electricity Distribution Co. Ltd. & Ors. v. R Z Malpani***, 2026 SCC OnLine SC 553.

12. Further, in view of the principles laid down by the Supreme Court in ***TRF Limited v. Energo Engineering Projects Ltd.,*** (2017) 8 SCC 377, ***Perkins Eastman Architects DPC v. HSCC (India) Ltd.,*** (2020) 20 SCC 760, ***and Bharat Broadband Network Limited v. United Telecoms Limited,***

2019 SCC OnLine SC 547, it is incumbent on this Court to appoint an independent sole arbitrator to adjudicate the disputes between the parties.

13. Accordingly, Mr. Naman Joshi, Advocate (Mob. No. 9810057280), is appointed as the Sole Arbitrator to adjudicate the disputes between the parties arising out of the MSA dated 10.04.2024.

14. The learned Sole Arbitrator may proceed with the arbitration proceedings subject to furnishing to the parties requisite disclosures as required under section 12 of the A&C Act, and in the event there is any impediment to the appointment on that count, the parties are given liberty to file an appropriate application in this Court.

15. It is agreed between the parties that the arbitration shall take place under the aegis of and as per the rules of Delhi International Arbitration Centre (DIAC).

16. All rights and contentions of the parties in relation to the claims/counter-claims are kept open, to be decided by the learned Arbitrator on merits, in accordance with law.

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

18. The petition stands disposed of in the above terms.

SACHIN DATTA, J

OCTOBER 16, 2026*/at/ka*