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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CS(COMM) 197/2026 & I.A. 5434/2026, I.A. 5435/2026, I.A.
5436/2026

THE INDIAN HOTELS COMPANY LIMITEDPlaintiff

Through: Mr. Gautam Narayan, Sr. Adv with
Mr. R. A. Iyer, Ms. Asmita Singh,
Ms. Deboshree Mukherjee, Ms.
Aaliya Waziri, Advocates.

versus

NEW DELHI MUNICIPAL COUNCILDefendant

Through: Mr. Saurabh Seth (Standing Counsel
for NDMC) with Mr. Kabir Dev, Mr.
Sukhvir Singh, Advocates

CORAM:
HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER

% **26.02.2026**

1. The instant suit has been filed by the Plaintiff for declaration and other related consequential reliefs under the Specific Relief Act, 1963, Contract Act, 1872 and the Code of Civil Procedure, 1908.
2. Shorn of unnecessary details, the facts leading to the instant plaint are that the Plaintiff entered into an agreement with the Defendant/NDMC on 11.04.2019. The purport of the said agreement was operation, maintenance and management of the Hotel, i.e., Taj Mahal.
3. Clause 15 of the agreement contains a *force majeure* clause, which is reproduced as under:-

“15. FORCE MAJEURE



15.1 As used in this Agreement, the expression “Force Majeure” or “Force Majeure Event” shall, save and except as expressly provided otherwise, mean occurrence of any or all the below set events, if (a) it affects the ability of the Party claiming the benefit of Force Majeure (the “Affected Party”) to perform its obligations under this Agreement (additionally, in the case of the Licencee, if the Licencee is unable to own or operate, all or a substantial part of the Licensed Premises), (b) is beyond the reasonable control of the Affected Party, and (c) the Affected Party could not have prevented or overcome by exercise of due diligence and following good industry practice:

(a) act of God, epidemic, extremely adverse weather conditions, lightning, earthquake, landslide, cyclone, flood, volcanic eruption, chemical or radioactive contamination or ionizing radiation, fire or explosion (to the extent of contamination or radiation or fire or explosion originating from a source external to the Licensed Premises);

(b) compulsory acquisition in public interest or expropriation of the Licensed Premises or rights of the Licencee:

(c) an act of war (whether declared or undeclared), invasion, armed conflict or act of foreign enemy, riot, insurrection, terrorist or military action, or

(d) any event or circumstances of a nature analogous to any of the foregoing.

15.2 Duty to Report Force Majeure Event

15.2.1 Upon occurrence of a Force Majeure Event, the Affected Party shall by notice report such occurrence to the other Party forthwith. Any notice pursuant



hereto shall include full particulars of:

(a) the nature and extent of each Force Majeure Event which is the subject of any claim for relief under this Clause 15 with evidence in support thereof;

(b) the estimated duration and the effect or probably effect which such Force Majeure Event is having or will have on the Affected Party's performance of its obligations under this Agreement;

(c) the measures which the Affected Party is taking or proposes to take for alleviating the impact of such Force Majeure Event; and

(d) any other information relevant to the Affected Party's claim.

15.2.2 The Affected Party shall not be entitled to any relief for or in respect of a Force Majeure Event unless it shall have notified the other Party of the occurrence of the Force Majeure Event as soon as reasonably practicable, and in any event no later than 7(seven) days after the Affected Party knew, or ought reasonably to have known, of its occurrence, and shall have given particulars of the probable material effect that the Force Majeure Event is likely to have on the performance of its obligations under this Agreement. For avoidance of any doubt, the giving of a notice of Force Majeure by any Party to the other Party shall not automatically constitute Force Majeure.

15.2.3 For so long as the Affected Party contuse to claim to be materially affected by such Force Majeure Event, it shall provide the other Party with regular (at least weekly) reports containing information as required by Clause 15.2.1, and such other information as the other Party may reasonably request the Affected



Party to provide.

15.3 Effect of Force Majeure on the Licence Period

If any Force Majeure Event occurs after the Effective Date, whereon the Licencee is unable to perform its obligations under this Agreement for an aggregate period exceeding 7(seven) days in a Financial Year during the subsistence of each such Force Majeure Event, the Licence Period shall be extended by a period, equal in length to the period during which the Licencee was unable to perform its obligations due to such Force Majeure Event.

15.4 Allocation of Costs Arising Out of Force Majeure

15.4.1 Upon occurrence of any Force Majeure Event, the Parties shall bear their respective costs and no Party shall be required to pay to the other Party any costs thereof.

Save and except as expressly provided in this Clause 15, neither Party shall be liable in any manner whatsoever to the other Party in respect of any loss, damage, cost, expense, claims, demands and proceedings relating to or arising out of occurrence or existence of any Force Majeure Event or exercise of any right pursuant hereto.

15.5 Termination Notice for Force Majeure Event

If a Force Majeure Event subsists for a continuous period of 180 (one hundred eighty) days or more, either Party may in its discretion terminate this Agreement by issuing a termination notice to the other Party without being liable in any manner whatsoever for, and upon issue of such termination notice, this



Agreement shall, notwithstanding anything to the contrary contained herein, stand terminated forthwith; provided that before issuing such termination notice, the Party intending to issue the termination notice shall inform the other Party of such intention and grant 15 (fifteen) days' time to make a representation, and may after the expiry of such 15 (fifteen) days period, whether or not it is in receipt of such representation, in its sole discretion issue the termination notice.

15.6 Dispute Resolution

In the event that the Parties are unable to agree in good faith about the occurrence or existence or impact of a Force Majeure Event, such Dispute shall be finally settled in accordance with the dispute resolution provisions set out in Clause 20.3; provided that the burden of proof as to the occurrence or existence of such Force Majeure Event shall be upon the Party claiming relief and/or excuse on account of such Force Majeure Event.

15.7 Excuse from Performance of Obligations

If the Affected Party is rendered wholly or partially unable to perform its obligations under this Agreement because of a Force Majeure Event, it shall be excused from performance of such of its obligations to the extent it is unable to perform on account of such Force Majeure Event; provided that:

(a) the suspension of performance shall be of no greater scope and of no longer duration than is reasonably required by the Force Majeure Event;

(b) the Affected Party shall make all reasonable efforts to mitigate or limit damage to the other Party arising out of or as a result of the existence or occurrence of



such Force Majeure Event and to cure the same with due diligence; and

(c) when the Affected Party is able to resume performance of its obligations under this Agreement, it shall give to the other Party notice to that effect and shall promptly resume performance of its obligations hereunder.”

4. It is the case of the Plaintiff that due to COVID-19 pandemic, various orders were passed by the Government restricting the use of hotels and the premises because of which the Plaintiff’s activities were badly crippled from 2020 to 2022.

5. It is stated that the Government had itself taken certain decisions regarding payments to be made in this period. Paragraph 8 of the plaint enumerates the amount which was due to and payable by the Plaintiff to Defendant during the COVID-19 pandemic under the agreement.

6. It is the case of the Plaintiff that before instituting the present suit, the Plaintiff was obliged to follow the procedure provided under Clause 20.3, which reads as under:-

“20.3 Amicable Resolution

20.3.1 Save where expressly stated to the contrary in this Agreement, any dispute, difference or controversy of whatever nature between the parties, howsoever arising under, out of or in relation to this Agreement (the “Dispute”) shall in the first instance be attempted to be resolved amicably in accordance with the procedure set forth in Clause 20.3.2 below.

20.3.2 Either Party may require such Dispute to be referred to the Chairman of the Licensor and the Person duly authorized by the Board of Directors of



the Licencee, for amicable settlement. Upon such reference, the two shall meet at the earliest mutual convenience and in any case within thirty (30) days of such reference to discuss and attempt to amicably resolve the Dispute, as evidenced by the signing of written terms of settlement within thirty(30) days of such meeting or such longer period as may be mutually agreed by the Parties.”

7. The Plaintiff states that the suit is one for declaration and not for claiming of money and therefore, applying Article 58 of the Limitation Act, 1963, the right to sue arose for the first time only when the negotiation failed, i.e., on 20.05.2025.
8. *Per contra*, learned Counsel for the Defendant states that on 17.11.2022 itself, the request of the Plaintiff for excluding the said amount of money has been rejected and therefore, right to sue arose for the first time on 17.11.2022. He states that the payment for the amounts arose in April, 2020. However, the request of the Plaintiff was rejected on 17.11.2022 and applying Section 9 of the Limitation Act, once the period of limitation begins to run, the same cannot be stopped by filing a subsequent suit or application. He states that the present suit is seeking mere declaratory rights, and therefore, is hit by Section 34 of the Specific Relief Act, 1963.
9. Issue summons.
10. Learned Counsel for the Defendant accepts notice.
11. Written Statement(s) be filed by the Defendants along with the affidavit(s) of admission/denial to the Plaintiff's documents within the time stipulated under the Delhi High Court (Original Side) Rules, 2018.
12. Replication, if any, be also filed along with the affidavit of



admission/denial to Defendants' documents within the time stipulated under the Delhi High Court (Original Side) Rules, 2018.

13. In the opinion of this Court, an endeavour can be made to settle the disputes amicably. It is open for the Defendant/NDMC to consider the suggestion given by the Court to settle the disputes amicably. However, it is made clear that this will not stop the completion of pleadings in the present suit.

14. List before the learned Joint Registrar on 23.04.2026.

SUBRAMONIUM PRASAD, J

FEBRUARY 26, 2026

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