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

+ **O.M.P.(I) (COMM.) 388/2023**

RESILIENT INNOVATIONS PRIVATE LIMITED..... Petitioner

Through: Mr. Akhil Sibal, Sr. Adv. along with
Mr. Anuj Berry, Mr. Sourabh Rath,
Ms. Megha Janakiraman, Ms.
Bhargavi Vadeyar, Mr. Vibhore
Yadav, Mr. Mohit Goel, Ms. Ashavry
Jain and Mr. Aparajito Sen, Advs.

versus

ASHNEER GROVER Respondent

Through: Mr. Giriraj Subramanium, Mr.
Simarpal Singh Sawhney, Mr. Joy
Banerjee, Mr. Ravi Pathak, Mr.
Akhilesh Talluri, Mr. Siddhant Juyal
and Ms. Urvashi Singh, Advs.

CORAM:

HON'BLE MR. JUSTICE SACHIN DATTA

ORDER

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24.11.2023

IA No.23535/2023 (Exemption)

Allowed, subject to all just exceptions.

Application stands disposed of.

O.M.P.(I) (COMM.) 388/2023

1. The present petition has been filed by the petitioner under Section 9 of the Arbitration and Conciliation Act, 1996 seeking urgent interim injunction restraining the respondent from disclosing the confidential information of the petitioner's company pursuant to the terms of the Employment Agreement dated 20.08.2021, entered into between the petitioner and the



respondent.

2. Admittedly, the respondent was appointed as the Managing Director of the petitioner, which appointment was governed by the terms of the aforesaid agreement dated 20.08.2021. The respondent resigned as Managing Director of the petitioner on 01.03.2022.

3. The Employment Agreement dated 20.08.2021 entered into between the parties contains the following clause:

“8. Confidentiality

8.1 *The Employee acknowledges that during the course of his employment with the Company, he will have access to and/or will possess trade secrets and other confidential information of the Company and its suppliers and customers, including the Company’s business plans, technological and strategic initiatives, marketing programs, details of suppliers and customers, pricing and credit techniques, information concerning dealings, transactions or affairs of the Company or any of its Affiliates, program codes, software design know-how, research and development activities, private processes, and books and records (“Confidential Information”). To protect the Confidential Information and the goodwill of the Company, the Employee undertakes to the Company that he shall not, without the express written permission of the Company, use or disclose (either personally or through an agent or otherwise, directly or indirectly) or permit to be used or disclosed:*

8.1.1 any such Confidential Information; or

8.1.2 any trade name used by the Company, or any other name similar to such a trade name.

8.2 *In furtherance of Clause 8.1 above, all memoranda, notes, records or other documents, made or compiled by the Employee or made available to him in the course of his employment, which contain Confidential Information, if in the possession or under the Employee’s control shall be delivered to the Company, or on the Company’s instructions destroyed by the Employee, upon termination of his employment.*

8.3 *The Employee’s confidentiality obligations under this Clause 8*



shall continue in perpetuity except in the following circumstances:

8.3.1. if the Employee is required by any court of law or statutory, regulatory or quasi-judicial authority to disclose any Confidential Information;

8.3.2. if the Confidential Information in question is in the public domain without any breach of this Clause 8 or other confidentiality obligation;

8.3.3. if the Employee receives the Confidential Information in question from any third party who has obtained the same lawfully.

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xxx

12.8 Survival

The provisions of Clause 7 (Non-Competition and Non-Solicitation), Clause 8 (Confidentiality), Clause 10 (Obligations upon Termination), Clause 11 (Representations and Warranties) and Clause 12 (Miscellaneous) of this Agreement shall survive the termination of the Employee's employment with the Company for any reason."

4. Learned senior counsel for the petitioner submits that the respondent has been acting in utter violation of the aforesaid clause 8 inasmuch as sensitive confidential information pertaining to the petitioner's company is stated to have been put out in public domain by the respondent through social media posts. In this regard, reference is made to certain posts made by the respondent on 'X'(formerly known as Twitter) on 17.11.2023 and 18.11.2023, filed as documents 4, 5 and 7 in the present petition.

5. Issue notice.

6. Learned counsel, as aforesaid, appears and accepts notice on behalf of the respondent. He seeks some time to file reply. Let the same be filed within a period of two weeks from today.

7. Learned counsel for the respondent concedes that the aforesaid posts of the respondent ought not to have been made by the respondent and that



the respondent is willing to tender an apology for the same. He further assures and undertakes that the respondent shall scrupulously comply with, and act in accordance with of the aforesaid Clause-8 of the Employment Agreement dated 20.08.2021, executed between the parties. However, he questions the maintainability of the present petition on the ground that arbitral proceedings between the parties are already in progress before an arbitral tribunal constituted under a Shareholders Agreement dated 04.08.2021, which is stated to be the parent agreement between the parties. He submits that the disputes pertaining to the Employment Agreement dated 20.08.2021 should also be referred to the same arbitral tribunal which is already in place. This aspect shall be considered on the next date of hearing.

8. List on 22.12.2023.

SACHIN DATTA, J

NOVEMBER 24, 2023/cl