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

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Judgment delivered on: 11.10.2017

+ ARB. P. 138/2017

SHAKUNTALAM SECURITIES PVT. LTD. Petitioner

Through
versus

QUTAB REALCON PVT. LTD.

..... Respondent

Through

Advocates who appeared in this case:

For the Petitioner : Mr. Varun Tyagi with Mr. Bharat Gupta,
Advocates.

For the Respondent : None.

**CORAM:-
HON'BLE MR JUSTICE SANJEEV SACHDEVA**

**JUDGMENT
11.10.2017**

ARB. P. 138/2017

1. The petitioner, by this petition under Section 11 of the Arbitration & Conciliation Act, 1996 seeks appointment of a sole independent Arbitrator.
2. The respondent had approached the petitioner for seeking a loan from the petitioner, which is a non-banking financial corporation.
3. Agreement, receipt and promissory note were executed on 05.11.2015. As per the petitioner, an amount of Rs.75 lakhs was disbursed

to the respondent.

4. As per the petitioner, the respondent failed to repay the said amount and even the cheque issued towards repayment was dishonoured.

5. Clause 10(b) of the Agreement between the parties reads as under:-

“10.

b) If the dispute is not resolved through such discussions with in fifteen (15) days after one party has served a written notice on the other party requesting the commencement of discussions, the dispute or claim shall be finally settled by arbitration in accordance with the Arbitration and Conciliation Act, 1996 ('Arbitration Act') as amended from time to time: The dispute shall be resolved through arbitration by a Sole Arbitrator, Mr. Mukesh Chudhary S/o Late Sh. B.S. Choudhary R/o C-9/18, Sector-8, Rohini, Delhi – 110085 which shall be conducted in the English language and the place of arbitration shall be in New Delhi.”

6. In terms of the arbitration agreement, as contained in Clause 10(b) of the Agreement dated 05.11.2015, the disputes were to be referred to the sole arbitrator Mr. Mukesh Chaudhary. However, in view of the subsequent amendments in the Arbitration & Conciliation Act by the Arbitration & Conciliation (Amendment) Act, 2015 the named arbitrator was ineligible in terms of Section 12 of the Act.

7. Accordingly, a sole arbitrator was appointed. The respondent filed an application under Section 16 seeking termination of the mandate of the Sole Arbitrator so appointed. The Sole Arbitrator terminated her mandate. Accordingly, the petitioner has filed the present petition.

8. The respondents were served with the notice. The respondents entered appearance and requested that the matter be referred to mediation. The matter was referred to mediation. However, the mediation proceedings did not result in a settlement.

9. None appears for the respondents despite pass over. No reply has been filed by the respondents. Accordingly, the petition is liable to be allowed.

10. Since the respondents have failed to file any reply to oppose the petition, a sole independent arbitrator is liable to be appointed.

11. Accordingly, it is directed that a sole Arbitrator be appointed under the Rules of the Delhi International Arbitration Centre. The parties shall appear before the Coordinator, Delhi International Arbitration Centre on 27.10.2017 at 4 pm.

12. The Arbitration shall be conducted under the aegis of Delhi International Arbitration Centre in accordance with law.

13. The petition is allowed in the above terms.

14. Order *Dasti* under the signatures of the Court Master.

SANJEEV SACHDEVA, J

OCTOBER 11, 2017/st