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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

ARBITRATION APPLICATION (L.) NO.33 OF 2019

Uppal Engineering Co.Pvt. Ltd.	..Applicant
Vs.	
Dewan Housing Finance Limited	..Respondent

**WITH
ARBITRATION PETITION (L.) NO.111 OF 2019**

Uppal Engineering Co.Pvt. Ltd.	..Petitioner
Vs.	
Dewan Housing Finance Limited	..Respondent

Mr.Ritesh Khatri i/b. Mr.Santaram Tarale for Applicant/Petitioner.
Mr.Viraj Kandpile for Respondent.

CORAM : G.S. KULKARNI, J.

DATE : 21st FEBRUARY, 2019

P.C.:

Heard learned Counsel for the applicant/petitioner and learned Counsel for the respondent.

2. The arbitration application is filed under Section 11 of the Arbitration and Conciliation Act, 1996 (for short, “the ACA”) whereby the applicant-Uppal Engineering Co. Pvt. Ltd. has prayed that an arbitrator be appointed to adjudicate the disputes and differences which have arisen between the parties, under the loan agreement entered

between the parties. Under Article 12 of the agreement, the parties have agreed to refer the disputes which would arise under the agreement in question, for arbitration. There is no dispute on the existence of any arbitration agreement between the parties. The applicant has also placed on record correspondence entered between the parties in relation to the disputes. By applicant's letter dated 27 November 2018 the applicant has invoked the arbitration agreement and requested the respondent for appointment of an arbitrator. Thereafter, reminder by letters dated 13 December 2018 and 13 January 2019 were sent, and as there was no response from the respondent, the present application has been filed under Section 11 of the Act.

3. After the application was heard for some time, learned Counsel for the respondent, on instructions, is agreeable that the disputes be referred for adjudication by an arbitral tribunal. In view of the consensus between the parties, the arbitration application is required to be disposed of. Hence, the following order:-

ORDER

(i) Mr.Pankaj Kowli, Advocate of this Court, is appointed as a sole Arbitrator to arbitrate the disputes and differences between the parties under the Loan Agreement.

- (ii) The learned sole prospective arbitrator, fifteen days before entering the arbitration reference, shall forward a statement of disclosure as per the requirement of Section 11(8) read with Section 12(1) of the Arbitration and Conciliation Act, 1996, to the Prothonotary & Senior Master of this Court, to be placed on record of this application with a copy to be forwarded to both the parties;
- (iii) Arbitration Petition (L.) No.111 of 2019 filed under Section 9 of the ACA is permitted to be converted into an application under Section 17 of the ACA to be adjudicated by the arbitral tribunal;
- (iv) At the first instance, the parties shall appear before the prospective arbitrator within 15 days from today on a date which may be mutually fixed by the prospective sole arbitrator;
- (v) All contentions of the parties on merits of the disputes as also on the Section 17 application are expressly kept open;
- (vi) The above application under Section 11 of the ACA as also Section 9 petition are disposed of in the above terms. No costs.
- (vii) Office to forward a copy of this order to the learned Arbitrator on the following address:

address: 31, Kamer Building, (Opposite Vardhaman Chamber),
Cawasjee Patel Street, Fort, Mumbai – 400 001.

Contact No. 9869218897 / 9167024439

4. At this stage, learned Counsel for the petitioner has drawn attention of the Court to a letter dated 5 February 2019 recalling the loan, which was actually despatched on 7 February 2019 when the order dated 6 February 2019 passed by this Court directing that the respondent shall not take any coercive action, was in force.

5. Mr.Kandpile, learned Counsel for respondent on instructions fairly submits that it was a bonafide mistake on the part of the respondent and tenders an apology for this mistake on the part of the respondents. Mr.Kandpile submits that for all purposes the letter dated 5 February 2019 as addressed on behalf of the respondent stands withdrawn. Statement is accepted.

6. Parties to act on an authenticated copy of this order.

[G.S. KULKARNI, J.]