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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
ARBITRATION APPLICATION NO. 320 OF 2019**

Pioneer Finance Co Pvt Ltd	...Petitioner
<i>Versus</i>	
Jayna Motors	...Respondent

**Mr Dhiraj D Chavan, with Sanjay Rego, i/b Deven Dmarkadas &
Partners, for the Petitioner.
None for the Respondent.**

**CORAM: G.S. PATEL, J
(Through Video Conference)
DATED: 4th December 2020**

PC:-

1. Heard through video conferencing.

2. The Application is under Section 11 of the Arbitration and Conciliation Act 1996. There was a Business Loan Agreement dated 25th October 2018 between the parties. A copy of this is annexed to the Petition.

3. On several previous occasions the Respondent was absent and unrepresented. On the last occasion, on 6th November 2020, one Mr Yogendra Jain appeared. I made it clear that I would not allow further adjournments or excuses non-appearance.

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4. There is an Affidavit in Reply. It takes a very peculiar defence that the agreement is not signed by the parties. Now Section 7 of the Arbitration and Conciliation Act does require an arbitration agreement to be in writing. But that section itself makes it clear that there is no statutory requirement that every document must be signed by both parties.

5. The defence is exceedingly peculiar because admittedly and demonstrably the Respondent has indeed signed the agreement. It is the signature of the Petitioner, a party invoking arbitration that is missing. I do not see how the Respondent can possibly argue that there is no executed arbitration agreement or that it is not bound by the arbitration agreement.

6. The arbitration agreement is to be found in clause 18. This provides for an arbitration and as to jurisdiction says that will be at the branch of the Petitioner where disbursement has been made. That place is Mumbai. There is, therefore, no question of jurisdiction that arises.

7. As to the question of stamp, Mr Chavan confirms that the document was submitted for adjudication and the Petitioners have paid the amount demanded by the Competent Authority, Rs. 13,000/-.

8. There is, therefore, no impediment to referring the matter to arbitration. Mr Chavan leaves the choice of the Arbitration to the Court.

9. I nominate Mr Salil Shah, learned Advocate of this Court to act as a sole Arbitrator to decide the disputes and differences between the parties to the Business Loan Agreement dated 25th October 2018.

TERMS OF APPOINTMENT

(a) **Appointment of Arbitrator:** Mr Salil Shah, learned Advocate of this Court, is hereby nominated to act as a Sole Arbitrator to decide the disputes and differences between the parties under Business Loan Agreement dated 25th October 2018.

(b) **Communication to Arbitrator of this order:**

- (i) A copy of this order will be communicated to the learned Sole Arbitrator by the Advocates for the Applicant within one week from the date this order is uploaded.
- (ii) The Advocates for the Applicant will forward an ordinary copy of this order to the learned Sole Arbitrator at the following postal and email addresses:

Arbitrator	Mr Salil Shah, Advocate.
<i>Address</i>	3/4, Yusuf Condominiums, 3rd Floor, Next to Kitab Khana, Fort, Mumbai 400 023
<i>Mobile</i>	+91 98210 76362
<i>Email</i>	salil_s@yahoo.com

- (c) **Disclosure:** The learned Sole Arbitrator is requested to forward, in hard copy or soft copy (or both), the necessary statement of disclosure under Section 11(8) read with Section 12(1) of the Arbitration Act to Advocates for the parties as soon as possible. The Advocates for the Applicant will arrange to file the original statement in the Registry. If the statement is forwarded in soft copy, a print out of the covering email is also to be filed in the registry.
- (d) **Appearance before the Arbitrator:** Parties will appear before the learned Sole Arbitrator on such date and at such place as the learned Sole Arbitrator nominates to obtain appropriate directions in regard to fixing a schedule for completing pleadings, etc.
- (e) **Contact/communication information of the parties:** Contact and communication particulars are to be provided by both sides to the learned Sole Arbitrator. The information is to include functional email addresses and mobile numbers.
- (f) **Section 16 application:** The respondent is at liberty to raise all questions of jurisdiction within the meaning of section 16 of the Arbitration Act. All contentions are left open.
- (g) **Interim Application/s:**
 - (i) Liberty to the parties to make an interim application or interim applications including

(but not limited to) interim applications under Section 17 of the Arbitration & Conciliation Act, 1996 before the learned Sole Arbitrator. Any such application will be decided in such manner and within such time as the learned Sole Arbitrator deems fit.

(ii) The learned Sole Arbitrator is requested to dispose of all interim applications at the earliest.

(h) **Fees:** The arbitral tribunal's fees shall be governed by the Bombay High Court (Fee Payable to Arbitrators) Rules, 2018.

(i) **Sharing of costs and fees:** Parties agree that all arbitral costs and the fees of the arbitrator will be borne by the two sides in equal shares in the first instance.

(j) **Consent to an extension if thought necessary.** Parties immediately consent to a further extension of up to six months to complete the arbitration should the learned Sole Arbitrator find it necessary.

(k) **Venue and seat of arbitration:** Parties agree that the venue and seat of the arbitration will be in Mumbai.

10. The application is disposed of in these terms. No costs.

11. This order will be digitally signed by the Private Secretary of this Court. All concerned will act on production of a digitally signed copy of this order.

(G. S. PATEL, J)