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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **ARB.P. 729/2020**

HARVINDER SINGH Petitioner
Through: Mr. Vivekanand, Advocate.

versus

SAHARAYN UNIVERSAL MULTIPURPOSE SOCIETY LTD. & ANR. Respondents
Through: Mr. Anurag Ahluwalia, & Mr. Nitenem Singh Ghuman for R-2, Mr. Rohan Ahuja for R-1 & Mr. Shivnath Kumar, Advocates.

+ **ARB.P. 730/2020**

HARVINDER KAUR Petitioner
Through: Mr. Vivekanand, Advocate.
versus

SAHARAYN UNIVERSAL MULTIPURPOSE SOCIETY LTD. & ANR. Respondents
Through: Mr. Anurag Ahluwalia & Mr. Nitenem Singh Ghuman for R-2, Mr. Rohan Ahuja for R-1 & Mr. Shivnath Kumar, Advocates.

+ **ARB.P. 731/2020**

HARVINDER KAUR Petitioner
Through: Mr. Vivekanand, Advocate.
versus

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SAHARA CREDIT COOPERATIVE SOCIETY LTD. & ANR.

..... Respondents

Through: Mr. Anurag Ahluwalia & Mr.
Nitenem Singh Ghuman for R-2, Mr.
Rohan Ahuja for R-1 & Mr. Shivnath
Kumar, Advocates.

+ **ARB.P. 732/2020**
HARVINDER SINGH

..... Petitioner

Through: Mr. Vivekanand, Advocate.

versus

SAHARA CREDIT COOPERATIVE SOCIETY LTD. & ANR.

..... Respondents

Through: Mr. Anurag Ahluwalia & Mr.
Nitenem Singh Ghuman for R-2, Mr.
Rohan Ahuja for R-1 & Mr. Shivnath
Kumar, Advocates.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

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16.03.2021

1. The present petition under Section 11(6) of the Arbitration and Conciliation Act, 1996, seeks appointment of a Sole Arbitrator to adjudicate the disputes that have arisen between the parties. The Petitioners are individuals, who have invested their income under different financial schemes of Respondent No. 1, a society registered under the Multi-State Co-operative Societies Act, 2002 (hereinafter referred to "the MSCS Act"). The contention of the Petitioners is that on the representation, persuasion and assurances given by Respondent No. 1 through its associates, the Petitioners took membership with the society and made investments/ deposits of their

hard-earned money in their various schemes. On some occasions, Respondent No. 1 paid the deposit money in time but, in respect of the deposits that are subject matter of the present petitions, the Respondent No.1 has not allowed the Petitioners to prematurely withdraw/encash the amounts thereunder. Legal notice dated 5th August, 2020 was also sent to Respondent No. 1 demanding payment, but to no avail.

2. The Petitioners, in ARB. P. Nos. 729/2020 & 730/2020 and in ARB. P. Nos. 731/2020 & 732/2020, issued legal notices dated 22nd September, 2020 and 5th October, 2020 respectively whereby, the Petitioners invoked Arbitration and requested the competent authority i.e., Respondent No. 2 to appoint the Arbitrator. However, till date, despite service of the said notice, the competent authority has failed to make the appointment. In these circumstances the Petitioners have approached this Court for appointment of a Sole Arbitrator.

3. Petitioners contend that since premature withdrawal has not been granted, the dispute has to be resolved in terms of the Section 84 of the MSCS Act, which reads as under:-

“84. Reference of disputes.—(1) Notwithstanding anything contained in any other law for the time being in force, if any dispute [other than a dispute regarding disciplinary action taken by a multi-State co-operative society against its paid employee or an industrial dispute as defined in clause (k) of section 2 of the Industrial Disputes Act, 1947 (14 of 1947)] touching the constitution, management or business of a multi-State co-operative society arises—

(a) among members, past members and persons claiming through members, past members and deceased members, or

(b) *between a member, past members and persons claiming through a member, past member or deceased member and the multi-State co-operative society, its board or any officer, agent or employee of the multi-State co-operative society or liquidator, past or present, or*

(c) *between the multi-State co-operative society or its board and any past board, any officer, agent or employee, or any past officer, past agent or past employee, heirs or legal representatives of any deceased officer, deceased agent or deceased employee of the multi-State co-operative society, or*

(d) *between the multi-State co-operative society and any other multi-State co-operative society, between a multi-State co-operative society and liquidator of another multi-State co-operative society or between the liquidator of one multi-State co-operative society and the liquidator of another multi-State co-operative society, such dispute shall be referred to arbitration.*

(2) *For the purposes of sub-section (1), the following shall be deemed to be disputes touching the constitution, management or business of a multi-State co-operative society, namely:—*

(a) *a claim by the multi-State co-operative society for any debt or demand due to it from a member or the nominee, heirs or legal representatives of a deceased member, whether such debt or demand be admitted or not;*

(b) *a claim by a surety against the principal debtor where the multi-State co-operative society has recovered from the surety any amount in respect of any debt or demand due to it from the principal debtor as a result of the default of the principal debtor, whether such debt or demand is admitted or not;*

(c) *any dispute arising in connection with the election of any officer of a multi-State co-operative society.*

(3) If any question arises whether a dispute referred to arbitration under this section is or is not a dispute touching the constitution, management or business of a multi-State co-operative society, the decision thereon of the arbitrator shall be final and shall not be called in question in any court.

(4) Where a dispute has been referred to arbitration under sub-section (1), the same shall be settled or decided by the arbitrator to be appointed by the Central Registrar.

(5) Save as otherwise provided under this Act, the provisions of the Arbitration and Conciliation Act, 1996 (26 of 1996) shall apply to all arbitration under this Act as if the proceedings for arbitration were referred for settlement or decision under the provisions of the Arbitration and Conciliation Act, 1996."

4. The counsel for Respondent No. 1 submits that the terms and conditions of the deposits do not permit premature withdrawal/encashment. The amounts can only be disbursed on the date of maturity which is yet to occur. In this view of this matter it cannot be said that there is a dispute between the parties. The present petitions are premature, without cause of action and are thus misconceived. Mr. Anurag Ahluwalia, learned CGSC for the Respondent No. 2 submits that in terms of the notification dated 24th February, 2003, in exercise of the powers under sub-section (2) of Section 4 of the MSCS Act, the Central Government has directed that the powers exercisable by the Central Registrar under Section 84 of the MSCS Act shall also be exercisable by the Registrar of the Co-operative Societies of the States/U.Ts, in respect of the Societies located in their respective jurisdictions. He submits that in case the Petitioners were to make a request to the Registrar of Co-operative Society of the concerned State, the appointment of the Arbitrator shall be made in terms of the Section 84 of the

MSCS Act.

5. Having considered the submissions of the parties, the Court is of the opinion that since the existence of the FDRs is not in dispute, the Arbitration Agreement between the parties is clearly established. Having regard to the terms and conditions of the deposits, the contention of Respondent No. 1 that disputes have not arisen is clearly devoid of merit. The refusal on the part of Respondent No. 1 in not allowing premature withdrawal/encashment of the FDRs would certainly be a dispute that would require adjudication. Merely because the terms and conditions of the deposit do not permit premature withdrawal, it cannot be held that Petitioners have no cause of action to make a claim contrary to the alleged terms and conditions. Whether the withdrawal is permissible or not is an aspect that would have to be examined by the Arbitral Tribunal as the same falls within the ambit of the Arbitration Agreement.

6. Further, since the Petitioner has already made a request to the competent authority for making the appointment and there has been no response to the said communication, there is no need to relegate the Petitioner to making a request for appointment of an arbitrator all over again, to the Registrar, Co-operative Societies of the concerned State. Further, Respondent No. 1 is a Multi-State Co-operative Society.

7. In view of the above, the present petitions are allowed. Mr. O.P. Gupta (Retd.), District and Sessions Judge [Contact No: +91 9910384645] is appointed as the Sole Arbitrator to adjudicate upon the disputes that have arisen in respect of each of the following deposits:

ARB. P. 729/2020 (Harvinder Singh vs. Saharyn Universal Multipurpose Society Ltd. & Anr.)-

Certificate no. 795000507326 bearing Receipt No. 34019274996 with Membership No. 918046001573

ARB. P. 730/2020 (Harvinder Kaur vs Saharayn Universal Multipurpose Society Ltd. & Anr.) -

Certificate no., 795000507327 bearing Receipt No. 34019274997 with Membership No. 918046001574.

ARB. P. 731/2020 (Harvinder Kaur vs. Sahara credit Cooperative Society Ltd. & Anr.)-

a) Certificate no. 914000358806 bearing hologram no. *992295467464, Receipt No. 80384611330, Membership No. 18041400532 issued by the then West Delhi Regional office of the Respondent No. 1 at Rajouri Garden, New Delhi.

b) Certificate No. 925009970122 bearing hologram 992893429795, Receipt No. 80829487544, Membership No. 18041400532 issued by the then West Delhi Regional office of the Respondent No. 1 at Rajouri Garden Sector, New Delhi.

c) Recurring deposit savings bank account no. 18043100261 Membership No. 18041400532

ARB. P. 732/2020 (Harvinder Kaur vs. Sahara Credit Cooperative Society Ltd. & Anr.)-

a) Certificate no. 914000358801 bearing hologram no. 992295467360, Receipt No. 80384611223, Membership No. 18041400531 issued by the then Wet Delhi Regional office of the Respondent No. 1 at Rajouri Garden, New Delhi.

b) Certificate No. 925009970111 bearing hologram no. 992893428909, Receipt No. 80829486848, Membership No. 18041600571 issued by the then West Delhi Regional

*office of the Respondent No. 1 at Rajouri Garden Sector,
New Delhi.*

*c) Recurring deposit savings bank account no.
18043100260 Membership No. 18041400531."*

8. The parties are directed to appear before the learned Sole Arbitrator as and when notified. This is subject to the Arbitrator making the necessary disclosure under Section 12(1) of the Act and not being ineligible under Section 12(5) of the Act.

9. The learned Arbitrator will be paid his fee in terms of the provisions of the Fourth Schedule appended to the Act.

10. At this stage, the learned counsel for Respondent No. 1 submits that there is a possibility of an amicable solution in respect of the disputes arising out of FDR certificates in ARB. P. Nos. 731/2020 and 732/2020.

11. Accordingly, it is made clear that the reference of disputes to the Arbitral Tribunal *qua* the said petitions would be kept in abeyance for a period of two weeks from today to enable the parties to settle the disputes in respect of the said receipts. It is made clear that in the event the disputes are not settled, the Arbitrator will proceed to adjudicate the disputes.

12. The petitions stand disposed of in the aforesaid terms.



SANJEEV NARULA, J

MARCH 16, 2021/as