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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

ARB No.140 of 2022 (O&M)

Date of Decision: 13.12.2022

ANIL GROVER AND ANR.Petitioners

Vs

INDIABULLS HOME FINANCE LIMITED AND ANR.

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Sahej Mahajan, Advocate for
Mr. Ashwani Talwar, Advocate for the petitioners.

Mr. Sumeet Goel, Senior Advocate with
Mr. Samir Rathaur, Advocate and
Mr. Arush Neeraj Vaid, Advocate for the respondents.

RAJ MOHAN SINGH, J.(Oral)

[1]. The Petitioners have preferred this petition under Section 11(6) of the Arbitration and Conciliation Act, 1996 (hereinafter to be referred as 'the Act') for appointment of an independent Arbitrator to adjudicate the dispute arising out of imposition of foreclosure charges while closing the loan transaction of the petitioners.

[2]. Admittedly the account was settled on 14.01.2015. The grievance of the petitioners is that at the time of settling the account, foreclosure charges were illegally applied to the tune of Rs.2,73,225/- (Rs.2,31,547.30 as principle amount along with Rs.41,678/- as interest). The petitioners seek to recover the aforesaid foreclosure charges along with interest. In order to

recover, the the aforesaid amount, the petitioners also filed a civil suit for recovery on 14.01.2016 in a civil Court at Panipat. In the suit, the respondents filed an application under Section 8 of the Arbitration and Conciliation Act which was dismissed by the civil Court vide order dated 18.09.2017. An appeal was preferred before the Addl. District Judge, Panipat and the same was allowed vide order dated 25.02.2021. The aforesaid order has attained finality.

[3]. In view of **Vijay Kumar Sharma @ Manju vs. Raghunandan Sharma @ Baburam & Ors., 2010(2) SCC 486**

even pendency of an application under Section 8 of the Act before any Court will not come in the way of an arbitration being commenced or continued and an arbitral award being made. The respondents have not denied existence of dispute, rather the respondents have filed an application under Section 8 of the Act thereby terminating the scope of any civil suit. In response to the notice of invocation dated 01.12.2021, the respondents have suggested three names of retired judicial officer of Delhi to which learned counsel for the petitioners has not agreed.

[4]. Though there is no apparent justification in not adhering to the proposal given by the respondents, but still in order to inspire confidence of all concerned, I hereby appoint **Sh. Ravi Chaudhary, Advocate # 31/Type-II, PU Residential Complex,**

Sector 25, Chandigarh, Mobile No.8750234000 as the sole Arbitrator, to resolve the dispute/difference between the parties. The appointment of the Arbitrator shall be subject to the declaration to be made by him as required under Section 12 of Arbitration and Conciliation Act, 1996 in respect of his independence and impartiality to settle the dispute between the parties.

[5]. The Arbitrator would complete the proceedings within the specified time in terms of Section 29-A of the said Act. The Arbitrator shall be paid fee in accordance with the IVth Schedule of the Act as amended from time to time. The fee shall be borne by both the parties equally.

[6]. Venue of the Arbitration shall be the place to be disclosed by the Arbitrator according to his convenience.

[7]. A copy of this order be dispatched to the Arbitrator at the following address:-

Sh. Ravi Chaudhary, Advocate
31/Type-II, PU Residential Complex,
Sector 25, Chandigarh, Mobile No.8750234000

[8]. Petition stands disposed of accordingly.

(RAJ MOHAN SINGH)
JUDGE

December 13, 2022

Atik

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No