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

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Date of decision: 17.02.2022

+ ARB.P. 28/2022

BHARTI P PATEL AND ANR & ORS. Petitioners
Through Mr.Shiv Gupta, Adv.

versus

MR HARCHARAN SINGH RANAUTA & ANR..... Respondents
Through None.

CORAM:
HON'BLE MR. JUSTICE SURESH KUMAR KAIT

JUDGMENT (oral)

1. The present petition has been preferred under the provisions of Section 11(5) of the Arbitration and Conciliation Act, 1996 seeking appointment of sole Arbitrator to adjudicate the disputes inter-se the parties.
2. As per the case of the petitioners, on 17.08.2020, the petitioners and the respondents entered into a Loan Repayment and Settlement Agreement whereby it was agreed that respondent No.1 would issue a post-dated cheque of Rs.12,05,50,191/- from his account for payment of the admitted liability. It is stated that respondent No.1 in conspiracy with other Directors of respondent No. 2, dishonestly issued a cheque of Rs.12,05,50,191/- from the dormant



account of respondent No.2, which on presentation was returned. Thereafter, disputes arose between the parties.

3. Accordingly, a legal notice was sent by the petitioners to the respondents on 28.07.2021 calling upon them to pay Rs.12,05,50,191/- along with interest @ 9% p.a. It is submitted that despite receipt of the said notice, the respondents failed to make any payment to the petitioners.

4. Subsequently, on 20.08.2021, petitioners invoked the Arbitration Clause in terms of the Loan Repayment and Settlement Agreement dated 17.08.2020. It is stated that despite receipt of the said notice, the respondents failed to appoint the arbitrator. Thereafter, petitioners moved the present petition.

5. As per office report from Registry, service report qua notice to respondent through dasti, courier, speed post, email, fax and Whatsapp is awaited. However, according to affidavit of service dated 08.02.2022 placed on record by petitioner, the respondents are served. It is mentioned in the affidavit that respondent has been served through e-mail and whatsapp. Also, process sent through speed post has “confirmed item delivery”.

6. In the opinion of this Court, respondents are duly served but they have chosen deliberately not to appear before this Court. Thus, it seems that they have nothing to oppose in the present petition.

7. Accordingly, **Mr. Justice (Retd.) M. C. Garg (Mobile: 9899337979)** is



appointed the sole Arbitrator to adjudicate the dispute between the parties.

8. The fee of the learned Arbitrator shall be governed by the Fourth Schedule of the Arbitration and Conciliation Act, 1996.

9. The learned Arbitrator shall ensure compliance with Section 12 of Arbitration and Conciliation Act, 1996 before commencing the arbitration.

10. With aforesaid directions, the present petition is, accordingly, disposed of.

(SURESH KUMAR KAIT)
JUDGE

FEBRUARY 17, 2022/rb

