

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**

**CIVIL APPELLATE JURISDICTION**

**ARBITRATION PETITION NO. 150 OF 2024**

Shree Shivam Attires Private Limited

...Petitioner

**Vs.**

M/s. Bajaj Finance Limited

...Respondent

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Mr. Ravi Rattesar a/w Kiran Singh for the Petitioner.

Mr. Nikhil Mehta i/by KMC Legal Venture for the Respondent.  
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**CORAM : ARIF S. DOCTOR, J.**

**DATE : 4TH SEPTEMBER, 2024**

**P.C.:-**

1. This is a Petition filed under Section 11 of the Arbitration and Conciliation Act, 1996 for appointment of an Arbitrator. The disputes and differences between the parties arise from a Loan Agreement which is dated 31<sup>st</sup> March, 2014.

2. Today, it is not a dispute before me that the entire amount of this Loan Agreement has in fact been repaid. The only dispute raised by the Petitioner is that the rate of interest mentioned in the sanction letter was 11.80% and processing fees was stated to be 0.87% which were not according to the finalized terms and permitted rate and other terms of sanction. It is on this limited aspect that parties are at variance.

3. Learned Counsel appearing on behalf of the Respondent very fairly does not dispute the existence of the Agreement or the validity of the arbitration clause, but opposes the Petition on the ground that today there is no live dispute given the fact that the loan has been repaid.

4. Learned Counsel appearing on behalf of the Petitioner submits that defence taken by the Respondent is one which can be considered on merits. He today points out that since there is no dispute to the availability of the arbitration agreement as also the arbitration clause contained therein there can be no impediment for appointment of an Arbitrator. It is thus he submits that the present Petition deserves to be allowed.

5. Having heard Learned Counsel for the parties and given well settled position of law, I find that there is no dispute today to the existence of the arbitration agreement as also the arbitration clause and I find it fit to appoint an Arbitrator leaving open all rights and contentions of the Respondent as to the discharge and satisfaction of the loan amount to be urged before the Tribunal.

6. Learned Counsel submit that though the arbitration clause provides for the venue for arbitration Pune, they both by consent submit that the venue of the arbitration can be Mumbai.

7. Hence, I appoint Mr. Rajesh Khandelwal, an Advocate of this Court to act as Sole Arbitrator.

#### TERMS OF APPOINTMENT

- (a) **Appointment of Arbitrator:** Mr. Rajesh Khandelwal is hereby nominated to act as a Sole Arbitrator to decide the disputes and differences between the parties.
- (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 Petitioner within one week from the date this order is uploaded.
  - (ii) The Advocates for the Petitioner will forward an ordinary copy of this order to the learned Sole Arbitrator at the following postal and email addresses:

**Arbitrator/s**     **Mr. Rajesh Khandelwal**

*Address*             422 Midas, Sahar Plaza,  
Andheri Kurla Road, J.B. Nagar  
Andheri East Mumbai 400059.

*Contact No.*        022-40138009

*Email*                rajeshkhandelwal@jurislink.co.in

- (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 Petitioner 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.

8. Petition is accordingly disposed of.

(ARIF S. DOCTOR, J.)