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* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ ARB.P. 179/2023

OVINGTON FINANCE PVT. LTD. Petitioner
Through: Mr. Rahul Khanna, Adv.
versus

SMT UPASANA MISHRA & ANR. Respondents
Through: None.

CORAM:
JUSTICE PRATHIBA M. SINGH

ORDER
% **23.01.2024**

1. This hearing has been done through hybrid mode.
2. The present petition filed by the Petitioner-Ovington Finance Pvt. Ltd. under Section 11(6) of the Arbitration and Conciliation Act, 1996 arises out of a Loan Agreement dated 26th March, 2021. In the said Loan Agreement, there exists an arbitration clause between the parties, which reads as under:

“ARTICLE 12 -ARBITRATION

*That the Borrower and OFPL agree that agreement shall be construed in accordance with the laws in force in India and in the event that any dispute or difference, arise on any matter relating to or arising out of the present Agreement, the same shall be referred to the Sole Arbitration of an arbitrator to be appointed by OFPL whose decision shall be final and binding upon the parties. **The sole Arbitrator shall conduct the arbitration proceedings at New Delhi/Delhi.** It is also mutually agreed between the parties that OFPL would be entitled to invoke the present arbitration agreement even after OFPL would have recalled the Loan/terminated the contract, for any reason whatsoever. It is also agreed between the parties that arbitration proceeding would be conducted in English*



only and in no other language. The arbitration shall be conducted in accordance with Arbitration and Conciliation Act, 1996.”

3. As per the petition, the Respondents-Upasana Mishra and Pradeep Mishra had availed of a loan of Rs.11 lakhs, which was to be paid in 28 equal instalments, by creating equitable mortgage of property bearing plot no. 128, Mustil No.30, Kila No. 3/31(0-3), Mauza Tehsil & District Saran, Faridabad, Haryana, stated to be owned by Respondent No. 2. According to the Petitioner, the Respondents have only paid one to two installments. Thereafter, the payment was stopped.
4. A letter was issued under Section 21 of the Arbitration and Conciliation Act, 1996 dated 7th September, 2022 calling upon the Respondents to pay the outstanding amount of Rs.10,47,809/-, with additional interest. Further, other requisitions of the Petitioner were not complied with by the Respondents. Hence, the Petitioner prays for appointment of an Arbitrator in terms of Article 12 of the Loan Agreement as extracted above.
5. Notice was issued in this matter on 15th February, 2023. As recorded vide orders dated 28th July, 2023 and 10th October, 2023, for some time settlement talks were also going on between the parties. However, on 30th November, 2023, it was recorded that there was no settlement in the matter. Thus, a reply to the petition was directed to be filed. However, no reply has been filed till date and there is no appearance today on behalf of the Respondents. Further, the Respondents have not been appearing in the matter since the last two hearings.
6. Accordingly, this Court is of the opinion that no useful purpose would



be served in keeping the matter pending. The Id. Sole Arbitrator in terms of the said Article 12 of the Loan Agreement is appointed to adjudicate the disputes between the parties. Accordingly, **Mr. Tanodbhav Singh Dev, Advocate (M:9999012345)** is appointed as the Sole Arbitrator. The arbitration proceedings shall take place as per the rules of Delhi International Arbitration Centre ('DIAC'), under its aegis. Parties shall appear before the DIAC on 13th February, 2024.

7. Let a copy of the present order be emailed to Secretary, DIAC on email id- delhiarbitrationcentre@gmail.com. Copy of this order be also communicated to the Respondents as also the Id. Counsel for the Respondents.

8. The petition is disposed of.

PRATHIBA M. SINGH, J.

JANUARY 23, 2024/dk/dn