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

+ **ARB.P. 214/2024, I.A. 3820/2024**

PNB HOUSING FINANCE LIMITED

..... Petitioner

Through: Ms.Jasmine Damkewala, Mr.Rajesh
Kumar, Ms.Vaishali Sharma and
Mr.Divyam Khera, Advts.

versus

PRAFULLA SUBHASHCHANDRA BHAT & ORS.

..... Respondents

Through:

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

ORDER

20.05.2024

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By way of present petition filed under Section 11(5) of the Arbitration and Conciliation Act, 1996 (hereinafter, referred to as the '*A&C Act*'), the petitioner seeks appointment of Arbitral Tribunal comprising of a sole arbitrator, to adjudicate the disputes *inter se* the parties.

The petitioner has stated that the disputes have arisen between parties as the respondent nos.1 and 2 have breached the Loan Agreement dated 30.12.2017 by non-payment of dues. The disputes have also arisen as the petitioner is unable to enforce the payment of money secured by the mortgage charged upon immovable property given by the Respondent Nos. 1 and 2 to the petitioner on account of the fact that contrary to the representations by the respondents, this security being mortgage of flats is



not even in existence in its finished form and hence, unable to be able to be realized to repay the dues. Learned counsel for the petitioner has submitted though the possession of the mortgage property was taken by the petitioner in the year 2020, the property in concern remains in an unfinished state and is under construction and therefore the Respondent Nos. 3-5 have failed to hand over the completed flat till date as promised in the Mortgage Deed dated 03.01.2018.

The arbitration has been invoked by notice dated 31.10.2023. The loan agreement contains the arbitration clauses 10.7 with the jurisdiction at Delhi.

The affidavit has also been filed, as per which the respondents have duly been served. The respondents have not appeared despite being served.

In the circumstances, as there is agreement between the parties containing arbitration clauses and the arbitrable dispute, the present petition is disposed of with the following directions:

- i) The disputes between the parties under the said agreement are referred to the arbitral tribunal.
- ii) Mr.Siddharth Sharma, Advocate (mobile no.740111111) is appointed as an Arbitrator to adjudicate the disputes between the parties.
- iii) The remuneration of the learned Arbitrator shall be in terms of IVth schedule or as the parties may agree in consultation with the learned Arbitrator.
- iv) The learned Arbitrator is requested to furnish a declaration in terms of Section 12 of the Act prior to entering into the reference.
- v) It is made clear that all the rights and contentions of the parties, including as to the arbitrability of any of the claims, any other preliminary



objection, as well as claims on merits of the dispute of either of the parties, are left open for adjudication by the learned arbitrator.

vi) The parties shall approach the learned arbitrator within two weeks from today.

The petition along with the pending application is disposed of in the above terms.

DINESH KUMAR SHARMA, J

MAY 20, 2024/rb/dg..