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

+ **ARB.P. 302/2023**

OVINGTON FINANCE PVT. LTD. Petitioner

Through: **Mr. Aniket Rajput, Advocate.**

versus

NAGENDER CHAUDHARY Respondent

Through: **None.**

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

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30.04.2024

1. By way of this petition under Section 11 of the Arbitration and Conciliation Act, 1996 [“the Act”], the petitioner seeks appointment of an arbitrator to adjudicate disputes between the parties under a Loan Agreement dated 14.12.2019 [“Agreement”].

2. The Agreement contains an arbitration clause in Article 12, which provides for resolution of disputes by a sole arbitrator, to be appointed by the petitioner. It also provides that the arbitration proceedings will be conducted in New Delhi/Delhi.

3. Disputes having arisen between the parties, the petitioner, through counsel, addressed a legal notice dated 04.02.2023 to the respondent. Mr. Aniket Rajput, learned counsel for the petitioner, submits that in paragraph 8 of the said notice, the petitioner has invoked the arbitration clause. He also submits that the aforesaid communication failed to elicit a response.

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4. Although the Agreement is executed by the petitioner with two parties and the legal notice was also addressed to the two borrowers, Mr. Rajput states that the petitioner, at its own risk, wishes to commence arbitration proceedings only against the sole respondent herein.

5. Notice was issued in this petition on 17.03.2023, and the respondent was served by publication. Learned counsel appeared on his behalf before the learned Joint Registrar on 01.02.2024, but has not appeared since. He has also not filed a reply in terms of liberty granted to him by the said order of the learned Joint Registrar.

6. As the respondent has been duly served, and his counsel has also filed his *vakalatnama* dated 15.12.2023 and entered appearance before the learned Joint Registrar on 01.02.2024, I do not consider it necessary to await the presence of the respondent any further.

7. In the aforesaid facts and circumstances, I am satisfied that the petitioner has made out a *prima-facie* case with regard to the existence of an arbitration agreement between the parties, and that arbitration has been duly invoked. The respondent has also not appeared to controvert these contentions.

8. In view of the above, the petition is disposed of, by referring the disputes between the parties to arbitration. The arbitration will be held under the aegis of the Delhi International Arbitration Centre, Delhi High Court, Shershah Road, New Delhi-110503 [“DIAC”]. DIAC is requested to nominate an Arbitrator from its panel.

9. The arbitration proceedings will be governed by the Rules of DIAC, including as to remuneration of the learned Arbitrator.

10. The learned Arbitrator is requested to furnish a declaration under



Section 12 of the Act, prior to entering upon the reference.

11. As the respondents have not entered appearance in these proceedings, it is clarified that they will be duly served in accordance with the DIAC Rules in the arbitration proceedings also.

12. It is made clear that all rights and contentions of the parties are left open for adjudication by the learned arbitrator.

PRATEEK JALAN, J

APRIL 30, 2024
SS/