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

+ **CS(COMM) 189/2024 & I.As. 5107/2024, 5109/2024**

CHRYSLIS REALTY

PROJECTS PVT. LTD. & ANR.

..... Plaintiffs

Through: Mr. Nishant Nigam & Mr. Aman
Abbi, Advocates.

versus

SATTVAM INDIA VENTURES

PRIVATE LIMITED & ORS.

..... Defendants

Through: Ms. Anne Mathew, Advocates for
D-1 to 3.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

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21.05.2024

1. The plaintiffs have filed this suit for recovery of an amount of ₹5 crores - ₹3.25 crores in favour of the plaintiff No. 1 and ₹1.75 crores in favour of the plaintiff No. 2, alongwith interest thereupon. The suit is based upon a promissory note dated 07.09.2017, executed by defendant No. 1, then known as M/s Saturn Ventures and Advisors Private Limited, in connection with a loan of ₹ 5 crores, taken from a company by the name of M/s Futuristics Metal Trading Pvt. Ltd. ["Futuristics"]. Defendant No. 3- Mr. Satish Gopinath signed the promissory note as a guarantor.

2. The plaintiffs' claim is under two Assignment Agreements dated 01.04.2022. By these agreements, the debt due to Futuristics under the



promissory note was assigned, to the extent of ₹3.25 crores and interest thereupon, to the plaintiff No. 1, and to the extent of ₹1.75 crores and interest thereupon, to plaintiff No. 2. Defendant No. 1 is party to the Assignment Agreements as the “BORROWER/ CONFIRMING PARTY”. The Assignment Agreements have been signed by defendant No. 3, in his capacity as director of defendant No. 1.

3. Although another director of defendant No. 1 has been arrayed as defendant No. 2 in the suit, summons have not been issued to defendant No. 2. Mr. Nishant Nigam, learned counsel for the plaintiffs, does not seek relief against him.

4. An application [I.A. 30009/2024] has now been filed by defendant Nos. 1 and 3, ostensibly under Section 8 of the Arbitration and Conciliation Act, 1996 [“the Act”]. They seek reference of disputes in this suit to arbitration, relying upon Clause 6 of the Assignment Agreements dated 01.04.2022. The said clause reads as follows:-

“6 Arbitration and governing law

6.6.1 *The Assignor and the Assignee hereby agree that they shall work together to resolve any dispute that may arise under this Agreement.*

6.6.2 *In the event that disputes do arise under this Agreement, which the Parties are unable to settle amicably, the dispute shall be settled by arbitration pursuant to the Arbitration and Conciliation Act, 1996 as amended from time to time.*

6.6.3 *The place of Arbitration shall be New Delhi and the language of the Arbitration shall be English.*

6.6.4 *The Parties shall jointly appoint a sole arbitrator. If the Parties do not agree on a sole arbitrator within thirty (30) days of the date of service of notice of arbitration by the Party initiation arbitration. The parties shall each appoint one arbitrator. The third arbitrator shall be the chairman of the arbitral tribunal and shall be appointed by the two arbitrators appointed by the Parties or, if they are unable to agree on the appointment of the third arbitrator, in accordance with the Arbitration and Conciliation Act, 1996.*

6.6.5 *This Agreement shall be governed by laws of India and*



subject to provisions of Clause 6 shall be subject to exclusive jurisdiction of the courts of Mumbai.”

5. Mr. Nigam, upon instructions, concedes to this prayer, and submits that disputes may be resolved by arbitration, to which both the plaintiffs, and defendant Nos. 1 and 3, would be parties.

6. Ms. Anne Mathew, learned counsel for defendant Nos. 1 and 3, raises a question as to the seat of arbitration, relying upon clause 6.6.5 quoted above. The said clause provides that “*subject to provisions of Clause 6*”, the agreement would be subject to the exclusive jurisdiction of the courts in Mumbai. Clause 6.6.3 however, designates New Delhi as the place of arbitration. As clause 6.6.5 is expressly subject to the arbitration provision contained in the same clause, I am of the view that the designation of New Delhi as the place of arbitration must bind the parties.

7. In view of the above, and with the consent of learned counsel for the parties, the suit is disposed of with the following directions:-

- a. The disputes between the plaintiffs on the one hand, and defendant Nos. 1 and 3 on the other hand, will be adjudicated by the arbitration of Hon’ble Ms. Justice Asha Menon, former Judge of this Court [Tel: 9910384664].
- b. The arbitration will be held under the aegis of Delhi International Arbitration Centre, Delhi High Court, Shershah Road, New Delhi-110503 [“DIAC”], and will be governed by the Rules of DIAC, including as to the remuneration of the learned Arbitrator.
- c. The learned Arbitrator is requested to furnish a declaration under Section 12 of the Act, prior to entering upon the reference.
- d. The interim order passed by this Court on 04.03.2024 will be



treated as an order under Section 9 of the Act, and will hold the field, subject to any other orders that the learned Arbitrator may pass.

e. All parties are at liberty to approach the learned Arbitrator under Section 17 of the Act for appropriate interim reliefs, if any.

f. The learned Arbitrator may continue, vary, vacate or modify the order passed by this Court.

8. In view of the fact that the parties have been referred to arbitration at a relatively preliminary stage, the Registry is directed to refund the Court fee to the plaintiffs, in consonance with Section 16 of the Court Fees Act, 1870.

PRATEEK JALAN, J

MAY 21, 2024

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