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

+ ARB.P. 477/2024
M/S SANDHU MOTOR FINANCE PVT LTD Petitioner

versus

DINESH KUMAR NARANG Respondent

+ ARB.P. 478/2024
M/S SANDHU MOTOR FINANCE PVT LTD Petitioner

versus

DINESH KUMAR NARANG Respondent

Appearances:

Mr. Sudhir Gupta, Ms. Sonali Arora, Advocates for petitioner.

Ms. Riya Kumar, Advocates for Mr. Dinesh Kumar Narang.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

% **27.05.2024**

1. By way of these petitions 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 two Loan Agreements dated 12.02.2019 [ARB.P. 477/2024] and 02.06.2018 [ARB.P. 478/2024].

2. Clause 17 of each agreement provides for resolution of disputes by arbitration. It is the contention of the petitioner that it had advanced loans to the respondent under these agreements, which were not satisfied. Cheques given by the respondent were also dishonoured.

3. The petitioner invoked arbitration by communications dated



25.08.2021 [ARB.P. 477/2024] and 17.07.2021 [ARB.P. 478/2024]. The said communications did not elicit a response. The petitioner, in fact, proceeded with arbitration proceedings, in which *ex-parte* awards dated 15.10.2022 were passed against the respondent. However, in execution proceedings before the District Court, the Executing Court passed orders dated 02.11.2023, holding that the awards were inexecutable as the learned Arbitrator had been unilaterally appointed by the petitioner herein.

4. It is in these circumstances that the petitioner seeks appointment of an independent arbitrator to adjudicate the disputes.

5. Ms. Riya Kumar, learned counsel, appears on behalf of the respondent. She does not contest the existence of the arbitration agreement, but submits that the disputes between the parties have been referred to mediation before the Mediation Centre, Karkardooma Court in proceedings instituted by the petitioner under Section 138 of the Negotiable Instruments Act, 1881.

6. Having heard learned counsel for the parties, keeping in mind that the arbitration clause is undisputed, I am of the view that it would be appropriate to refer the disputes to arbitration, but to defer the arbitral proceedings for a short period to enable the parties to arrive at a settlement in the pending mediation proceedings, if they can do so.

7. The petitions are therefore disposed of with the following directions:

A. The disputes between the parties under the two Loan Agreements dated 12.02.2019 [ARB.P. 477/2024] and 02.06.2018 [ARB.P. 478/2024] are referred to arbitration, to be held under the aegis of



Delhi International Arbitration Centre, Sher Shah Road, New Delhi-110503 [“DIAC”]. DIAC is requested to nominate an arbitrator from its panel.

- B. The arbitration proceedings will be governed by the Rules of DIAC, including as to 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. DIAC is requested to appoint a common arbitrator in both proceedings, although they will be treated as independent references for all purposes. The learned Arbitrator is free to decide whether to hold the proceedings together or separately.
 - E. DIAC is requested to defer the reference for a period of two months to enable the parties to resolve their disputes in mediation. In the event the parties seek further time to resolve their disputes in mediation, they may jointly request for a further deferment on this ground, and DIAC may grant the same. After the expiry of two months, at the request of either party, DIAC may proceed with the reference.
8. All rights and contentions of the parties are left open for adjudication by the learned Arbitrator.

PRATEEK JALAN, J

MAY 27, 2024
“*Bhupi*”/