



2024-DHC-4269



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* IN THE HIGH COURT OF DELHI AT NEW DELHI

% Date of decision: 20th May, 2024+ ARB.P. 521/2024

ADITYA BIRLA FINANCE LIMITED

..... Petitioner

Through: Mr. Amar Dubey, Advocate.

versus

ADI LAKSHMI TRADERS & ORS

..... Respondents

Through: None.

CORAM:**HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA****J U D G M E N T (oral)**

1. Affidavit of Service has been filed on behalf of petitioner on 11.05.2024.
2. As per the Office Noting respondents have been served through email.
3. None is present today on behalf of the respondents.
4. The Petition under Section 11(5) of the Arbitration and Conciliation Act, 1996 (*hereinafter referred to as 'the Act'*) has been filed on behalf of the petitioner, for appointment of Sole Arbitrator.
5. Briefly stated, the petitioner a non-banking finance Company is engaged in the business of finance offering a wide range of financial services. The respondent No.1 is a proprietorship concern approached the petitioner through its proprietor respondent No.2 and respondent No.3 being



the Guarantor to avail financial facilities from the petitioner. The petitioner sanctioned an amount of Rs.2,09,34,000/- vide Sanction letter dated 30.09.2022 to the respondent No.1 subject to terms and conditions as contained in the Loan Agreement executed between petitioner and the respondent. In terms of the loan documents, the respondents were required to repay the principal amount in accordance with repayment schedule.

6. The respondents started to commit default in repaying the principal and interest amount and thus, the loan account of the respondents was classified as “Non-Performing Asset” (NPA). The petitioner issued a Statutory Demand Notice dated 07.08.2023 to the respondent to make payment for the due amount of Rs.2,21,85,509.25, but no reply to the said Notice was received from the respondents. The petitioner was thus, constrained to file a petition under Section 9 of the Act before this Court. This Court vide Order dated 27.09.2023 granted interim relief in respect of mortgaged property/secured assets.

7. Thereafter, the petitioner in furtherance of Clause 32.17 of the Facility Agreement and Clause 25 of Deed of Guarantee issued a Notice dated 07.02.2024 to arbitrate to the respondents. However, the said Notice was returned with the remarks “no such person in the address”. Hence, the present petition has been filed by the petitioner for appointment of an Arbitrator for adjudication of the disputes between the petitioner and the respondents.

8. **Submissions heard.**

9. Considering that there is a valid Arbitration Agreement between the parties and in the light of the facts and discussions, the present petition is allowed and Hon’ble Ms. Justice Deepa Sharma, Former Delhi High Court



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Judge, Mobile No.9910384631, is hereby appointed as the Sole Arbitrator to adjudicate upon the disputes between the parties.

10. The parties are at liberty to raise their respective objections before the Arbitrator.

11 This is subject to the Arbitrator making necessary disclosure as under Section 12(1) of A&C Act, 1996 and not being ineligible under Section 12(5) of the A&C Act, 1996.

12. The appointment of the Arbitrator shall be governed by the rules framed by the DIAC including the fees and the disclosure to be made by the learned Arbitrator in conformity of Section 12 of the Arbitration and Conciliation Act, 1996.

13. Learned counsels for the parties are directed to contact the learned Arbitrator within one week of being communicated a copy of this Order to them by the Registry.

14. A copy of this Order be also forwarded to the learned Arbitrator, for information.

15. The petition is accordingly disposed of in the above terms.

(NEENA BANSAL KRISHNA)
JUDGE

MAY 20, 2024

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