



2024:DHC:5561



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

+ **ARB.P. 528/2024**

**MONEYWISE FINANCIAL
SERVICES PVT LTD**

.....Petitioner

Through: Mr. Mehvish Khan, Ms.
Aishwarya Parashar, Mr. Deepak Mahajan,
Ms. Unnati and Mr. Hira Khan, Advs.

versus

**KK ENTERPRISES THROUGH ITS PROPRIETOR SH
VIRAL KIRIT KUMAR DOSHI AND ANR.....Respondents**

Through:

CORAM:

HON'BLE MR. JUSTICE C.HARI SHANKAR

JUDGMENT (ORAL)

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26.07.2024

ARB.P. 528/2024

1. This is a petition under Section 11(6) of the Arbitration and Conciliation Act, 1996¹ for appointment of an arbitrator to arbitrate on the disputes between the parties.

2. The dispute arises in the context of a Master Loan Agreement² dated 1 October 2020, executed between the petitioner and the respondents, whereunder the petitioner had loaned certain amounts to the respondents. The petitioner and the respondents are parties to the agreement. The agreement contains the following clause which envisages resolution of the disputes by arbitration:

¹ "the 1996 Act" hereinafter

² "MLA" hereinafter



2024:DHC:5561



“10.1. Arbitration: Any disputes, differences, controversies and questions directly or indirectly arising at any time hereafter between the Parties or their respective representatives or assigns, arising out of or in connection with this Agreement (or the subject matter of this Agreement), including, without limitation, any question regarding its existence, validity, interpretation, construction, performance, enforcement, rights and liabilities of the Parties, or termination ("Dispute"), shall be referred to a sole arbitrator duly appointed by the Lender. The language of the arbitration shall be English. The seat of the arbitration shall be at New Delhi and the language of proceedings shall be English. The award rendered shall be in writing and shall set out the reasons for the arbitrator's decision. The costs and expenses of the arbitration shall be borne equally by each Party, with each Party paying for its own fees and costs including attorney fees, except as may be determined by the arbitration tribunal. Any award by the arbitration tribunal shall be final and binding.”

3. According to the petitioner, an amount of approximately ₹ 32 Lakhs is due to the petitioner from the respondent. As this amount was not paid to the petitioner, the petitioner addressed a notice to the respondent on 15 May 2023 under Section 21 of the 1996 Act, invoking arbitration.

4. The respondent did not reply. The petitioner has, therefore, approached this Court under Section 11(6) of the 1996 Act, calling on the Court to appoint an arbitrator.

5. Service on the respondent could not be effected by ordinary means, but the respondent stands served by e-mail. An affidavit of service has been filed by the petitioner. The e-mails, whereunder service was effected, have also been placed on record. The email IDs at which service has been effected are reflected in the MLA. They, therefore, stand vouchsafed.

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Page 2 of 3

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2024:DHC:5561



6. As such, the respondent can be treated as having been duly served. Despite the matter having been called out twice, there is no appearance on behalf of the respondent, nor is there any reply to the petition.

7. As there exists an arbitration agreement between the parties, the dispute is *prima facie* arbitrable.

8. Accordingly, this Court appoints Mr. Roshan Lal Goel, Advocate (Tel: 9654169406), as the arbitrator to arbitrate on the dispute.

9. The arbitration would take place under the aegis of the Delhi International Arbitration Centre (DIAC) and would abide by its rules and regulations. The learned arbitrator shall be entitled to fees as per schedule of fees maintained by the DIAC.

10. The learned arbitrator is also requested to file the requisite disclosure under Section 12(2) of the 1996 Act within a week of entering on reference.

11. The petition stands allowed in the aforesaid terms.

C.HARI SHANKAR, J

JULY 26, 2024

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[Click here to check corrigendum, if any](#)

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Page 3 of 3

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