



2024-0000-4611



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
% ***Date of decision: 28th May, 2024***
+ **ARB.P. 583/2024, I.A. 10128/2024, I.A. 10129/2024**
INDIABULLS HOUSING FINANCE LTD.

..... Petitioner
Through: Mr. Vibhu Tripathi and Mr. Siddharth
Nayak, Advocates.
versus
YOGESH KUMAR AND ANR

..... Respondent
Through: None.

CORAM:
HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T (oral)

1. The present Petition under Section 11(6) of the Arbitration and Conciliation Act, 1996 (*hereinafter referred to as the "Act, 1996"*) has been filed on behalf of the petitioners seeking appointment of an independent Arbitrator.
2. **Briefly stated**, the petitioner is a public limited Company and is registered as a Housing Finance Institution engaged in the business of rendering of various kinds of housing loan facility. The respondent No.1/ Yogesh Kumar along with his wife respondent No.2/Uma Sharma jointly entered into a Loan Agreement dated 23.09.2016 with the petitioner against property bearing Flat No.3, Ground Floor, SLF Ved Vihar, Ghaziabad, U.P, for a total loan amount of Rs.11,49,659/-.
3. The respondents started defaulting in payment of EMIs in terms of the



Loan Agreement and Loan Account of the respondent was classified as a Non-Performing Asset.

4. A Notice dated 02.09.2021 under Section 13(2) of the SARFAESI Act, 2002 was issued by the petitioner for repayment of the outstanding loan amount of Rs.12.29,214/-. Subsequently, the mortgaged property was auctioned by the petitioner for a total amount of Rs.7,51,000/- for realization of the outstanding loan amount. After adjusting the amount recovered by auctioning of the mortgaged property, a sum of Rs.3,91,745/- along with interest remains outstanding towards the respondents.

5. The petitioner issued notice to the respondent invoking arbitration vide email, but the respondents did not come forth for appointment of independent Arbitrator out of the names suggested by the petitioner. Hence the present petition has been filed by the petitioner seeking appointment of an independent Sole Arbitrator in terms of Article 14 of the Loan Agreement dated 23.09.2016 executed between the parties.

6. The respondents have been served though email, but none has appeared on their behalf.

7. **Submissions heard.**

8. Considering that the disputes have arisen due to recovery of Rs.3,91,745/- along with interest and in terms of Clause 14 of the Agreement, the disputes are amenable to be settled through arbitration.

9. The petition is referred to the Delhi International Arbitration Centre (DIAC) which shall appoint an Arbitrator from the panel for adjudication of disputes.

10. 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.

11. The petition is disposed.
12. Let a copy of this order be sent to the Co-ordinator, DIAC.

(NEENA BANSAL KRISHNA)
JUDGE

MAY 28, 2024
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