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IN THE HIGH COURT OF DELHI AT NEW DELHI

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ARB.P. 640/2024

M/S SANDHU MOTOR FINANCE PVT LTDPetitioner

Through: Ms. Sonal Arora, Advocate.

versus

DINESH KUMAR NARANG & ANR.Respondents

Through: Ms. Riya Kumar, Advocate.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

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13.08.2024

1. The petitioner has approached this Court for appointment of an arbitrator to adjudicate disputes between the parties under a Loan Agreement dated 17.05.2018.
2. The Agreement contains an arbitration clause [Clause 17] which provides for appointment of an arbitrator by the petitioner. The petitioner initially invoked arbitration by a communication dated 17.07.2021 and nominated the arbitrator. An *ex-parte* award was passed on 15.10.2022. However, the petitioner withdrew the enforcement proceedings on 20.03.2024 in view of the judgment of this Court in *Kotak Mahindra Bank v. Narendra Kumar Prajapat* [2023 SCC OnLine Del 3148] which holds that an award passed by an unilaterally appointed arbitrator is a nullity and unenforceable. It has, therefore, approached this Court under Section 11 of the Arbitration and Conciliation Act, 1996 [“the Act”] for

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appointment of an independent arbitrator.

3. Ms. Riya Kumar, learned counsel, appears on behalf of the respondents pursuant to notice issued on 14.05.2024. She submits that the respondents do not dispute the existence of the arbitration agreement and an arbitrator may, therefore, be appointed leaving all rights and contentions of the parties open for consideration by the learned arbitrator.

4. In view of the above, the petition is disposed of by referring the disputes between the parties to arbitration under the aegis of Delhi International Arbitration Centre, Delhi High Court, Shershah Road, New Delhi [“DIAC”]. DIAC is requested to nominate an Arbitrator from its panel.

5. The arbitration proceedings will be governed by the Rules of DIAC, including as to remuneration of the learned Arbitrator.

6. The learned Arbitrator is requested to furnish a declaration under Section 12 of the Act, prior to entering upon the reference.

7. It is made clear that all rights and contentions of the parties are left open for adjudication before the learned arbitrator.

8. The petition is disposed of in terms of the above.

PRATEEK JALAN, J

AUGUST 13, 2024
SS/