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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **ARB.P. 696/2024**
YES BANK LTDPetitioner

Through:

versus

SOUMYA DIGITAL TECHNOLOGIES & ANR.Respondent
Through: **Mr. Kunal Kashyap, Adv.**

CORAM:
HON'BLE MR. JUSTICE JASMEET SINGH

ORDER
12.07.2024

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1. This is a petition seeking filed under section 11 of the Arbitration and Conciliation Act, 1996 seeking appointment of the Sole Arbitrator to adjudicate the disputes between the parties arising out of the Loan Agreement dated 27.07.2022.
2. The respondent Nos. 1 and 2 had taken a loan of Rs. 20 lakhs from the petitioner. The respondents have not repaid the loan amount and the total outstanding amount stands upto Rs. 16.51 lakhs.
3. The petitioner on 06.03.2024 issued a Loan Recall Notice and also invoked arbitration. The arbitration clause is Clause 6 of the Loan Agreement which reads as under:-

“Terms and conditions

6. The loan, this document/other documents, shall be governed by the laws of India. The parties hereto expressly agree that all disputes arising out of land/or relating to the loan, this or any other relevant document shall be subject to the exclusive jurisdiction of the court/tribunal of the city/place in which the branch of the bank from



where the disbursement has been made is situated, provided that the exclusivity aforesaid shall bind the borrower and the bank shall be entitled to pursue the same in any other court of competent jurisdiction at any other place; and provided further that if any dispute is below the pecuniary jurisdiction limit of the debts recovery tribunals established under the recovery of debts due to banks and financial institutions act, 1993, then such dispute shall be referred to arbitration in accordance with the provision of the arbitration and conciliation act, 1996 as may be amended, or its reenactment, by a sole arbitrator, appointed by the bank. The place of arbitration shall be at city/place in which the branch bank from where the disbursement has been made is situated or such other place as the bank may determine. The costs of such arbitration shall be borne by losing party or otherwise as determined in the arbitration award if a party is required to enforce an arbitral award by legal action of any kind, the party against whom such legal action is taken shall pay all reasonable costs and expenses and attorney's fees, including any cost of additional litigation or arbitration taken by the party seeking to enforce the award."

4. The respondent No. 2 is the sole proprietor of respondent No. 1. In the loan application form, the e-mail id of the respondent is shown as somyadigitaltechnologies@gmail.com and the mobile number as 9812346783. The same has been shared with the court through video conferencing mode.
5. Learned counsel for the petitioner undertakes to file the Loan Application form in the Registry within three days from today.
6. The respondent has been served through the said e-mail as well as through whatsapp on the given number.
7. For the said reasons, I am satisfied that the respondent has been served. Despite service, there is no appearance on behalf of the respondent.



8. In this view of the matter, the petition is allowed with the following directions:-

- i) Mr. Rana Sudarshan Biswas (Adv) (Mob. No. 9810889858) is appointed as a Sole Arbitrator to adjudicate the disputes between the parties.
- ii) The arbitration will be held under the aegis of the Delhi International Arbitration Centre, Delhi High Court, Sher Shah Road, New Delhi hereinafter, referred to as the 'DIAC'). The remuneration of the learned Arbitrator shall be in terms of the Fourth Schedule of the Arbitration & Conciliation Act, 1996.
- iii) The learned Arbitrator is requested to furnish a declaration in terms of Section 12 of the Act prior to entering into the reference.
- iv) It is made clear that all the rights and contentions of the parties, including as to the arbitrability of any of the claim, any other preliminary objection, as well as claims on merits of the dispute of either of the parties, are left open for adjudication by the learned arbitrator.
- v) The parties shall approach the learned Arbitrator within two weeks from today.

9. The petition is disposed of in the aforesaid terms.

JASMEET SINGH, J

JULY 12, 2024 / NG