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

+ **ARB.P. 716/2024**

M/S INDIABULLS HOUSING FINANCE LTD.Petitioner

Through: Mr. Raghav Khanna, Advocate

versus

THIRUVARUL ADIK SELVAN AND ORS.Respondents

Through: None

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER

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13.11.2024

1. The Petitioner has approached this Court by filing the present petition under Section 11(6) of the Arbitration & Conciliation Act for appointment of an Arbitrator to adjudicate the dispute arising out of a loan agreement entered into between the parties.
2. It is stated that dispute arose between the parties out of a loan agreement dated 30.11.2014 entered into between the parties. It is stated that Article 11 of the said agreement contains an arbitration clause and provides for appointment of a Sole Arbitrator to conduct the arbitration proceedings at Delhi.
3. Material on record discloses that there was a default on the part of the Respondents in repayment of loan and proceedings under the SARFAESI Act were initiated by the Petitioner.
4. It is stated that the property which was mortgaged was sold, however,



the loan amount has not yet been satisfied and therefore the Petitioner has approached this Court under Section 11 of the Arbitration & Conciliation Act for appointment of an Arbitrator on the ground that the seat of arbitration is in Delhi.

5. Notice was issued on 21.05.2024. On 10.09.2024, permission was granted to the learned Counsel for the Petitioner for effecting substitute service on Respondent No.2 and 4.
6. Steps were taken by the Petitioner and an application was filed for substitute service, i.e., service by way of publication in newspaper 'The Times of India' (English) and 'Loksatta' (Marathi).
7. It is stated that notice has been issued in The Times of India and Loksatta newspapers. A proof of publication along with citations has been filed in this Court. Therefore, service on the Respondents is complete.
8. It is the stand of the Petitioner that in the present agreement, there is no contra indication that the parties have agreed for jurisdiction at any other place and that the parties had agreed that the seat of arbitration will be in Delhi.
9. Learned Counsel for the Petitioner also contends that the judgment of the Apex Court in M/s Ravi Ranjan Developers Pvt. Limited v. Aditya Kumar Chatterjee, 2022 SCC OnLine SC 568 would not apply to the facts of the present case since the arbitration clause can be distinguished.
10. Learned Counsel for the Petitioner also places reliance on the judgment of the Apex Court in BGS SGS Soma JV v. NHPC Limited, (2020) 4 SCC 234.
11. Kush Raj Bhatia v. M/s DLF Power and Services Limited, 2022 SCC OnLine Del 3309.



12. In view of the above, this Court is inclined to appoint an Arbitrator to adjudicate the disputes between the parties.
13. Accordingly, this Court is inclined to appoint Ms. Sangeeta Sondhi, Adv., (Mob No.9810243382) as a Sole Arbitrator to adjudicate on the disputes between the Parties.
14. 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 the Schedule of Fees maintained by the DIAC.
15. 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.
16. All rights and contentions of the parties in relation to the claims/counter-claims are kept open, to be decided by the learned Arbitrator on their merits, in accordance with law.
17. Needless to say, nothing in this order shall be construed as an expression of this Court on the merits of the contentions of the parties.
18. The petition is disposed of along with pending application(s), if any.

SUBRAMONIUM PRASAD, J

NOVEMBER 13, 2024

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