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IN THE HIGH COURT OF DELHI AT NEW DELHI

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ARB.P. 734/2024

AXIS FINANCE LIMITED

.....Petitioner

Through: Mr. Raveesh Thukral, Adv.

versus

PINAK BRAHMBHATT

.....Respondent

Through:

CORAM:

HON'BLE MR. JUSTICE JASMEET SINGH

ORDER

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06.08.2024

1. This is a petition seeking appointment of an Arbitrator under Section 11(6) of the Arbitration and Conciliation Act, 1996.
2. The petitioner sanctioned a loan of Rs. 16,05,285/- to the respondent pursuant to the Loan Facility Agreement dated 19.05.2022.
3. Since the respondent failed to adhere to the terms and conditions of the Loan Agreement, the petitioner invoked the arbitration clause, being clause No.14 of the Loan Facility Agreement, which reads as under:-

“14. Arbitration:

(i) All disputes, differences and/or claim or questions arising out of these presents or in any way touching or concerning the same or as to constructions, meaning or effect thereof or as to the right, obligations and liabilities of the parties hereunder shall be referred to and settled by arbitration, to be held in accordance with the provisions of the Arbitration and Conciliation Act, 1996 or any statutory amendments thereof, of a sole arbitrator to be nominated by the Lender, and in the event of death, unwillingness, refusal, neglect, inability or incapability of a person so appointed to act as an arbitrator, the Lender may appoint a new arbitrator to be a sole arbitrator. The arbitrator shall not be required to



give any reasons for the award and the award of the arbitrator shall be final and binding on all parties concerned. The arbitration proceedings shall be held Mumbai/Delhi.

(ii) Notwithstanding anything to the contrary contained herein, any dispute, controversy or claim arising out of or relating to this contract, including its construction, meaning, scope or validity thereof, shall be resolved and settled by arbitration under the Arbitration and Conciliation Act, 1996 (as amended) which may be administered electronically under Online Dispute Resolution (ODR), in accordance with its Dispute Resolution Rules (“Rules”).

(iii) The parties consent to carry out the aforesaid proceedings electronically via the email addresses and / or mobile numbers as per Axis Finance records, updated from time to time.

(iv) The parties agree that the aforesaid proceedings shall be carried out by a sole arbitrator appointed under the Rules. The juridical seat of arbitration shall be Delhi/Mumbai, India and the aforesaid proceedings shall be subject to the exclusive jurisdiction of the competent courts in Delhi/Mumbai, India. The language of arbitration shall be English. The law governing the arbitration proceedings shall be Indian law. The decision of the arbitrator shall be final and binding on the parties.

4. The petitioner issued legal notice under Section 21 of the Arbitration and Conciliation Act, 1996 on 05.02.2024.
5. When the petition came up for hearing, the Court was pleased to issue notice to the respondent.
6. The affidavit of service shows that the respondent has been served



through email as well as Whatsapp.

7. Mr. Thukral, learned counsel for the petitioner has handed over the Loan Application Form of the respondent, wherein his email ID has been shown as pinak0509@gmail.com and mobile No. 9924177351.
8. He has also drawn my attention to the affidavit of service, wherein notices have been issued at email ID pinak0509@gmail.com and on Whatsapp on mobile No. 9924177351. Hence, the respondent has seemed to be served.
9. Despite service, there is nobody appearing on behalf of the respondent.
10. For the said reasons, the present petition is allowed and the following directions are issued:-
 - i) Ms. Bhawna Khanna, Advocate (Mob. No. 9810071710) 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/counter-



- claims and 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.
11. The Loan Application Form as well as the original agreement digitally signed by both the parties are taken on record.

AUGUST 6, 2024 / (MS)

JASMEET SINGH, J

Click here to check corrigendum, if any