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

+ **ARB.P. 747/2024**

M/S INDIABULLS HOUSING FINANCE LTD.Petitioner

Through: Mr. Raghav Khanna, Mr.
Siddharth Nayak, Mr. Vibhu
Tripathi, Mr. Sagar Devgan,
Advocates.

versus

M/S VEDANATH ALU GRAH UDYOG

AND ORS

.....Respondents

Through: Mr. Rajul Shrivastava, Ms. Nayan
Gupta, Advocates.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

12.09.2024

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1. By way of this petition under Section 11 of the Arbitration and Conciliation Act, 1996 [“the Act”], the petitioner seeks appointment of an arbitrator to adjudicate disputes between the parties under a Loan Agreement dated 15.09.2014 [“the Agreement”].

2. The Agreement contains an arbitration clause (Article 11), which provides for arbitration by a sole arbitrator, to be appointed by the petitioner. New Delhi has been designated as the place of the arbitration.

3. Disputes having arisen between the parties, the petitioner has taken measures under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 [“SARFAESI Act”]. It also appointed an arbitrator unilaterally, purporting to exercise its power



under the arbitration clause. However, the learned arbitrator, by a communication dated 25.01.2024, has terminated the proceedings, holding that unilateral appointment of the arbitrator is not permissible in view of the judgment of the Supreme Court in *Perkins Eastman Architects DPC & Anr. vs. HSCC (India) Limited* [(2020) 20 SCC 760]. The petitioner therefore invoked arbitration afresh by communication dated 03.02.2024, to which it did not receive a reply.

4. Notice was issued in this petition on 24.05.2024. Pursuant to the order dated 22.08.2024, Ms. Nayan Gupta, learned counsel for the respondent, submits that the existence of the arbitration clause is undisputed. She submits that the respondents would like to settle the disputes in mediation. This suggestion is also acceptable to learned counsel for the petitioner.

6. Having regard to the above, and with the consent of learned counsel for the parties, the petition is disposed of with the following directions:

a. The parties are referred to mediation under the aegis of Samadhan, Delhi High Court Mediation and Conciliation Centre, Shershah Road, New Delhi-110503. They will appear before the learned Mediator on 19.09.2024.

b. In the event the mediation proceedings are unsuccessful, the disputes between the parties will be adjudicated by 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. The learned Arbitrator is requested to furnish a declaration under Section 12 of the Act, prior to entering upon the



reference.

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

d. DIAC is requested to defer the proceedings for a period of eight weeks from today to enable the parties to resolve their disputes. The learned Arbitrator is requested to enter into reference after a period of eight weeks, upon request of either party.

7. All rights and contentions of the parties are left open for adjudication by the learned Arbitrator.

8. The petition stands disposed of with these directions.

PRATEEK JALAN, J

SEPTEMBER 12, 2024

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