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

+ **ARB.P. 873/2024**

NARENDRA NATH OJHA AND ORS.Petitioner

versus

TATA CAPITAL FINANCIAL SERVICES LTDRespondent

+ **ARB.P. 979/2024**

NARENDRA NATH OJHA AND ORSPetitioners

versus

TATA CAPITAL FINANCIAL SERVICES LTDRespondent

+ **ARB.P. 980/2024**

NARENDRA NATH OJHA AND ORS.Petitioners

versus

TATA CAPITAL FINANCIAL SERVICES LTDRespondent

Appearance:- Mr. Harsh Singh Rawat & Ms. Shailja Nanda Mishra,
Advocates for Narendra Nath Ojha & Ors. in Item
Nos. 7 to 9.

Mr. Rajat Katyal, Mr. Harsh Sinha & Mr. Rahul
Sambher, Advocates for Tata Capital Financial
Services Ltd. in Item Nos. 7 to 9.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

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20.08.2024

1. These three petitions have been instituted under Section 11 of the Arbitration and Conciliation Act, 1996 [“the Act”], for appointment of an arbitrator to adjudicate disputes between the parties under three loan agreements. ARB.P. 979/2024 and ARB.P. 980/2024 concern two loan



agreements dated 07.05.2018, and ARB.P. 873/2024 concerns a loan agreement dated 24.08.2020.

2. It is not disputed that the loan agreements contained arbitration clauses which provided for resolution of disputes by a sole arbitrator. Although the arbitrator was to be appointed under the agreements by the respondent, Mr. Harsh Sinha, learned counsel for the respondent, accepts that such unilateral appointment is impermissible and the appointment would have to be made by the Court.

3. Mr. Sinha submits that the loan under the agreement dated 24.08.2020 has already been closed and there is no dispute remaining between the parties in this regard. He states that, even with regard to two other loans, the parties may be given an opportunity to resolve the disputes amongst themselves.

4. Learned counsel for the parties are agreeable to a reference to mediation.

5. Having regard to the above, the petitions are disposed of with the consent of learned counsel for the parties, 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 27.08.2024.
- 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.



- c. The learned Arbitrator is requested to furnish a declaration under Section 12 of the Act, prior to entering upon the reference.
 - d. The arbitration proceedings will be governed by the Rules of DIAC, including as to remuneration of the learned Arbitrator.
 - e. DIAC is requested to defer the proceedings for a period of two months from today to enable the parties to resolve their disputes through mediation.
 - f. If either party approaches DIAC after the period of two months from today, DIAC is requested to proceed with the appointment of an arbitrator.
6. The petitions stand disposed of with these directions.

PRATEEK JALAN, J

AUGUST 20, 2024

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