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

+ ARB.P. 922/2024

MONEYWISE FINANCIAL SERVICES PVT LTDPetitioner
Through: Ms. Mehvish Khan, Advocate.

versus

CHANDAN KUMAR PANDEY PROP OF WALKTON
TECHNOLOGIES AND ANR.Respondents
Through: None.

CORAM:
HON'BLE MR. JUSTICE PRATEEK JALAN

% **ORDER**
09.09.2024

1. The petitioner has filed this petition under Section 11 of the Arbitration and Conciliation Act, 1996 [“the Act”], for appointment of an arbitrator to adjudicate disputes between the parties under an agreement dated 28.11.2019 entitled “*Master Loan Agreement*”.
2. The agreement contains an arbitration clause [clause 10.1] which provides for resolution of disputes by arbitration of a sole arbitrator, appointed by the petitioner. New Delhi has been designated as the seat of arbitration. Under Clause 9.1, Courts in Delhi have also been vested with exclusive jurisdiction.
3. Disputes having arisen between the parties, the petitioner first invoked arbitration by a notice dated 31.08.2021 and appointed an arbitrator. The learned arbitrator passed an *ex-parte* award on 22.11.2021.

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However, in execution proceedings filed by the petitioner, the executing Court declared the award to be unenforceable by an order dated 11.03.2024, on the ground that an arbitrator had been appointed unilaterally by the petitioner herein.

4. The petitioner has thereafter invoked arbitration afresh on 13.05.2024, and has also filed an application under Section 9 of the Act, in which the learned District Court has passed interim orders in its favour.

5. As the notice of invocation failed to elicit a response, the petitioner has approached this Court under Section 11 of the Act.

6. Notice was issued in this petition on 05.07.2024. Learned counsel for the petitioner has filed an affidavit of service, in which it is stated that she has served a copy of the petition upon both the respondents by email at the email addresses walkton.sales@gmail.com and surabhi5887@gmail.com on 06.08.2024 and the emails have not bounced back. These email addresses also appear in Schedule-I of the Agreement under the head “Details of Borrowers/Co-Borrowers and Guarantors”. As the respondents have not entered appearance despite service as aforesaid, the petition is taken up for hearing.

7. At the stage of proceedings under Section 11 of the Act, the Court is only required to satisfy itself *prima facie* as to the existence of an arbitration agreement. Having regard to the material on record, including Clause 10.1 of the Agreement, I am of the view that the petitioner has made out a case for appointment of an arbitrator leaving all questions on maintainability and merits open for adjudication by the learned arbitrator.

8. In view of the above, the petition is allowed and the disputes between the parties under the Master Loan Agreement dated 28.11.2019



are referred to arbitration under the aegis of Delhi International Arbitration Centre [“DIAC”] and will be governed by the Rules of DIAC, including as to remuneration of the learned Arbitrator. DIAC is requested to nominate an arbitrator from its panel.

9. The learned Arbitrator is requested to furnish a declaration under Section 12 of the Act, prior to entering upon the reference.

10. As the respondents have not entered appearance in these proceedings, it is made clear that the respondents are to be served afresh, in accordance with DIAC Rules, in the arbitration proceedings.

11. Needless to say, all rights and contentions of the parties, including arbitrability, maintainability of the claims and on merits, are left open for adjudication by the learned Arbitrator.

12. The petition stands disposed of in these terms.

PRATEEK JALAN, J

SEPTEMBER 9, 2024

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