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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **ARB.P. 1047/2023**
MONEYWISE FINANCIAL SERVICES PVT LTD Petitioner
Through: Ms. Mehvish Khan, Advocate.
versus
NITEEN PARULEKAR ARCHITECTS PVT LTD AND ORS
..... Respondents
Through: None.

CORAM:
HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

% **ORDER**
14.02.2024

No one is present on behalf of the respondents when the matter is called-out.

2. No reply has been filed by the respondents either.
3. The record shows that notice on this petition was issued on 10.10.2023; and then again on 01.12.2023; whereupon counsel had entered appearance on behalf of the respondents and sought time to file reply as is evident from last order dated 22.12.2023.
4. Since no one is present on behalf of the respondents today, it would appear that having been duly served and having sought time to file reply, the respondents are deliberately choosing to remain unrepresented in the matter. In the circumstances, the respondents are set *ex-parte*.
5. Learned counsel appearing for the petitioner submits that the disputes between the parties have arisen from a Loan Agreement dated 04.01.2019, whereby the petitioner/Moneywise Financial Services Pvt. Ltd. had advanced to the respondents the sum of Rs. 25 lacs as loan, as may be verified from Schedule-II to the agreement, which



also set-out the repayment schedule for the loan. It is pointed-out that the respondents have signed at the foot of every page of the agreement.

6. Counsel further draws attention to Loan Recall Notice dated 19.10.2020, stated to have been issued by the petitioner to the respondents; to which no reply is stated to have been received.
7. Consequent thereupon, the petitioner is stated to have issued to the respondents a notice dated 27.07.2023 invoking arbitration, to which the respondents issued reply dated 25.08.2023, which contains completely bald and bare denials of all material averments contained in the notice, to the point that the respondents have even denied that they ever availed any financial facility from the petitioner at all.
8. Notably, the respondents have stated in the reply that the petitioner has not annexed any documents in support of sanctioning of any financial loan facility, stating that the petitioner's allegation that the respondents have failed to pay the dues are "*..... vague in nature and are in the nature hearsay evidence*". The essence of the respondents' contention is that the petitioner has failed to annex any loan document *alongwith* the invocation notice.
9. Ms. Mehvish Khan, learned counsel for the petitioner has also drawn the attention of this court to clause 10.1 of the Loan Agreement which comprises the arbitration agreement; and contemplates reference of disputes between the parties to arbitration in accordance with the Arbitration & Conciliation Act 1996; with the 'seat' of arbitration being at New Delhi.



10. For completeness, it may be recorded that a separate territorial jurisdiction provision is also contained in clause 9 of the Loan Agreement, which subjects the contract between the parties to the jurisdiction of competent courts at Delhi.
11. Upon a conspectus of the averments contained in the petition, the stand taken by the respondents, and the submissions made, this court is satisfied that there is a valid and subsisting arbitration agreement between the parties; that this court has territorial jurisdiction to entertain and decide the present petition; and also that the disputes that are stated to have arisen between the parties, as set-out *inter-alia* in invocation notice dated 27.07.2023, do not appear *ex-facie* to be non-arbitrable.
12. In view of the above, learned counsel for the petitioner requests that this court may appoint a sole arbitrator; and then refer the matter for arbitration under the aegis of the Delhi International Arbitration Centre, New Delhi ('DIAC'), keeping all factual and legal contentions of both parties, open.
13. Accordingly, the present petition is allowed and **Mr. Shiv Singh Yadav, Advocate (Cellphone No.: +91 9310756750)** is appointed as the learned Sole Arbitrator to adjudicate upon the disputes between the parties; with arbitration proceedings to be conducted under the aegis of the DIAC, in accordance with applicable rules.
14. The learned Sole Arbitrator would furnish to the parties requisite disclosures as required under section 12 of the A&C Act; and in the event there is any impediment to the appointment on that count, the parties are given liberty to file an appropriate application in this court.



15. The learned Arbitrator shall then proceed with the arbitral proceedings in accordance with the rules and regulations of DIAC and subject to arbitrator's fee and arbitration costs, as may be applicable.
16. All rights and contentions of the parties in relation to the claims/counter-claims are kept open, to be decided by the learned Sole Arbitrator/Arbitral Tribunal on merits, in accordance with law.
17. A copy of this order be communicated *forthwith* to the Co-ordinator, DIAC, for information and compliance.
18. A copy of this order be communicated by the Registry *via* e-mail to the learned Sole Arbitrator, as also to learned counsel for the parties.
19. The petition stands disposed-of in the above terms.
20. Pending applications, if any, also stand disposed-of.
21. The Registry is also directed to e-mail a copy of this order to the respondents at their e-mail IDs available on record.

ANUP JAIRAM BHAMBHANI, J

FEBRUARY 14, 2024