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

+ ARB.P. 1049/2024

DHANI LOANS AND SERVICES LTDPetitioner

Through: Mr. Ankit Banati, Adv.

versus

SUNAYANA INVESTMENT COMPANY LTDRespondent

Through: None

CORAM:

HON'BLE MR. JUSTICE JASMEET SINGH

ORDER

% **15.10.2024**

1. This is a petition filed under Section 11(5) and (6) of the Arbitration and Conciliation Act, 1996, seeking appointment of the Sole Arbitrator to adjudicate the disputes between the parties.
2. The brief facts are that the petitioner executed a Loan Agreement dated 04.05.2020 with the respondent for Rs.150 crores.
3. Since the respondent defaulted in payment of EMIs as per the Schedule II of the said Agreement, the said Agreement stood terminated on 05.05.2022.
4. The arbitration clause is Clause 22 of the said Agreement which reads as under:-

“22. This Loan Documents is/shall be governed by Indian laws and the courts as mentioned in Schedule I hereunder shall have exclusive jurisdiction relating to any matter/issue under or pursuant to the Loan Documents. Notwithstanding anything to the contrary,

a) If any dispute/disagreement/differences (Dispute) arises between the Parties (including any obligor(s)) during the subsistence of the Loan Documents and/or thereafter, in connection with, inter alia, the validity, interpretation, implementation and/or alleged breach of any provision of the Loan Documents, jurisdiction or existence of the



arbitrator or of any nature whatsoever, then the Disputes shall be referred to a sole arbitrator who shall be appointed by the Lender Only.

It is expressly agreed that in any circumstance, the appointment of the sole arbitrator as aforesaid shall be and shall always deemed to be the sole means for securing the appointment/nomination or the sole: arbitrator, without recourse to any other alternative mode of appointment of the sole arbitrator. The place of the arbitration shall be New Delhi and the arbitration proceedings shall be governed by the Arbitration & Conciliation Act, 1996 (or any statutory re-enactment thereof, for, the time being in force) and shall be in the English language. The award shall be binding on the Parties subject to the applicable laws in force and the award shall be enforceable in any competent court of law;”

5. On 25.11.2023, the petitioner issued demand notice for payment of outstanding dues and also invoked arbitration. Hence the present petition.
6. This Court *vide* Order dated 19.07.2024 issued notice to the respondent. As per the service report, the respondent has been served.
7. Despite service, there is nobody appearing on behalf of the respondent.
8. For the said reasons, the petition is allowed and the following directions are issued:-

- i) Mr. B.B. Gupta, Sr. Adv. (Mob. No. 9811348989) 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’).



- iii) The remuneration of the learned Arbitrator shall be in terms of DIAC (Administrative Cost and Arbitrators' Fees) Rules, 2018.
- iv) The learned Arbitrator is requested to furnish a declaration in terms of Section 12 of the Act prior to entering into the reference.
- v) 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.
- vi) The parties shall approach the learned Arbitrator within two weeks from today.

9. The present petition is disposed of in the aforesaid terms.

JASMEET SINGH, J

OCTOBER 15, 2024/sp

Click here to check corrigendum, if any