



\$~26

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

+ **O.M.P. (COMM) 450/2022 & I.A. 18207/2022**

BHAGWANT RAI & ORS.Petitioners

Through: **Mr. Kunwar Chandresh, Advocate.**

versus

INDIA BULLS HOUSING FINANCE LTD.Respondent

Through: **Mr. Rishabh Gupta, Mr. Mukesh Gupta, Mr. Shivam Gupta and Ms. Vidhi Goel, Advocates. (Through VC)**

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

%

09.08.2024

1. The petitioners, by way of this petition under Section 34 of the Arbitration and Conciliation Act, 1996, assail an arbitral award dated 24.05.2022, by which disputes under three Loan Agreements dated 27.08.2009, 27.08.2009 and 31.01.2012 were adjudicated.

2. The first ground of challenge asserted by Mr. Kunwar Chandresh, learned counsel for the petitioners, is that the learned arbitrator was appointed unilaterally by the respondent. He submits that the proceedings were thereafter conducted *ex-parte*, without service of notice upon the petitioners.

3. Mr. Rishabh Gupta, learned counsel for the respondent submits without prejudice to the rights and contentions of the parties on the merits that the fact of unilateral appointment of the learned arbitrator is



undisputed.

4. Having regard to the judgments of the Supreme Court in *TRF Limited v. Energo Engineering Projects Limited* [(2017) 8 SCC 377] and *Perkins Eastman Architects DPC & Anr. v. HSCC (India) Limited* [(2020) 20 SCC 760], and the judgments of this Court in *Ram Kumar v. Shriram Transport Finance Co. Ltd.* [2022 SCC OnLine Del 4268], *Govind Singh v. Satya Group Pvt. Ltd.* [2023 SCC OnLine Del 37], and *Kotak Mahindra Bank Ltd. v. Narendra Kumar Prajapat* [2023 SCC OnLine Del 3148], Mr. Gupta accepts that the impugned award is a nullity and is required to be set aside. He requests that the respondent be given liberty to take fresh steps to agitate its claims under the said loan agreements.

5. Learned counsel for the petitioner states that, for this purpose, any notices invoking arbitration or other proceedings may be served upon the petitioner and additionally upon him [Mr. Kunwar Chandresh, Advocate].

6. Having regard to the aforesaid, the petition is allowed and the impugned award dated 24.05.2022 is set aside.

7. The respondent is at liberty to reagitate its claims in accordance with law.

PRATEEK JALAN, J

AUGUST 9, 2024

“Bhupi”/