



2024:DHC:8157



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

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Date of Decision : 21.10.2024+ **ARB.P. 1114/2024****CARS 24 FINANCIAL SERVICES PRIVATE LIMITED....Petitioner****Through: Mr. Anurag Arora, Adv. (through v/c)
versus****BMADHIVANAN & ANR.****.....Respondents****Through: None.****CORAM:****HON'BLE MR. JUSTICE SACHIN DATTA****SACHIN DATTA, J. (Oral)**

1. The present petition has been filed by the petitioner against the respondents seeking that a Sole Arbitrator be appointed to adjudicate the disputes between the parties. The disputes between the parties have arisen in the context of Credit Facility Agreement dated 27.01.2020 entered into between the petitioner and the respondents in terms of which the respondent no.1 was the borrower whereas the respondent no.2 was the co-borrower.
2. Disputes having been arisen between the parties, "Finance/Credit Facility Recall Notice-cum-Proposal for appointment of Arbitrator" dated 21.05.2024 was sent by the petitioner to the respondents.
3. *Vide* the said communication, the petitioner, referring to the failure on the part of the respondents in making the requisite payment in terms of the Credit Facility Agreement, proposed constitution of an Arbitral Tribunal comprising of a Sole Arbitrator to adjudicate the disputes between the parties. However, no response to the aforesaid notice was sent by the



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respondents

4. Notice in the present petition was issued on 29.07.2024.
5. An affidavit of service has been filed wherein it has been brought out that the respondents have been duly served by post and also through WhatsApp and email. However, there is no appearance on behalf of the respondents.
6. Since the existence of arbitration clause is evident from a perusal of the Credit Facility Agreement, there is no impediment to appointing an independent Sole Arbitrator for adjudicating the disputes between the parties, as prayed for, as mandated in terms of the judgments of the Supreme Court in *Perkins Eastman Architects DPC v. HSCC (INDIA) Limited*, (2020) 20 SCC 760, *TRF Limited v. Energo Engineering Projects Limited*, (2017) 8 SCC 377 and *Bharat Broadband Network Limited v. United Telecoms Limited*, (2019) 5 SCC 755.
7. Accordingly, Mr. Himanshu Goel, Advocate (Mob. No.: +91 9810215487), is appointed as the Sole Arbitrator to adjudicate the disputes between the parties.
8. The respondents shall be entitled to raise preliminary objections as regards jurisdiction/arbitrability, which shall be decided by the learned arbitrator, in accordance with law.
9. The learned Sole Arbitrator may proceed with the arbitration proceedings subject to furnishing to the parties requisite disclosures as required under Section 12 of the A&C Act.
10. The learned Sole Arbitrator shall be entitled to fee in accordance with Fourth Schedule to the A&C Act; or as may otherwise be agreed to between the parties and the learned Sole Arbitrator.



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11. All rights and contentions of the parties in relation to the claims/counter-claims are kept open, to be decided by the learned Arbitrator on their merits, in accordance with law.
12. Needless to say, nothing in this order shall be construed as an expression of this court on the merits of the case.
13. The present petition stands disposed of in the above terms.

SACHIN DATTA, J

OCTOBER 21, 2024/sv