



2024:DHC:8239



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

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Date of Decision : 23.10.2024+ **ARB.P. 1121/2024****CARS 24 FINANCIAL
SERVICES PRIVATE LIMITED**

.....Petitioner

Through: Mr. Anurag, Advocate.

versus

SURESH KASHYAP & ANR.

.....Respondents

Through: Mr. Pawash Piyush and Ms. Saumya
Bajaj, Advocates.**CORAM:****HON'BLE MR. JUSTICE SACHIN DATTA****SACHIN DATTA, J. (Oral)**

1. The present petition under Section 11(6) of the Arbitration and Conciliation Act, 1996 (hereinafter referred as 'the A&C Act') seeks appointment of a Sole Arbitrator to adjudicate the disputes between the parties.
2. The disputes between the parties have arisen in the context of Credit Facility Agreement dated 25.10.2019 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. The disputes are on account of alleged default on the part of the respondents in paying the tranches/instalments. The respondents allegedly failed to make the payment despite being granted opportunities.
3. The agreement between the parties contains an Arbitration Clause as under :-



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“15.2. Arbitration: Any dispute under this Agreement shall be settled by binding arbitration conducted in English with the seat of arbitration in New Delhi before a single arbitrator appointed by Lender and its sole discretion, as per the Arbitration and Conciliation Act, 1996.”

4. Disputes having arisen between the parties, a “Finance/Credit Facility Recall Notice-cum-Proposal” dated 30.04.2024 was issued by the petitioner to the respondents for appointment of a Sole Arbitrator. *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 respondents.

5. Thereafter, the petitioner approached this Court through the present petition seeking appointment of a Sole Arbitrator to adjudicate the disputes between the parties.

6. Learned counsel for the respondents does not dispute existence of the arbitration agreement, and accedes to an independent Sole Arbitrator being appointed by this Court to adjudicate the disputes between the parties.

7. In the aforesaid circumstances, there is no impediment to this Court in appointing an independent Sole Arbitrator for adjudicating the disputes between the parties, 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.

8. Accordingly, Mr. Anirudh Bakhru, Advocate (Mob. No. +919810133229), is appointed as the Sole Arbitrator to adjudicate the



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disputes between the parties.

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 IVth Schedule to the A&C Act; or as may otherwise be agreed to between the parties and the learned Sole Arbitrator.

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 23, 2024/at, sl