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

+ **ARB.P. 1157/2023**

MONEYWISE FINANCIAL SERVICES PVT LTD

..... Petitioner

Through: Mr. Shreyas Jain, Mr. Abhishek
Rathi, Advs. (VC).

versus

PRAMOD CHAUHAN

..... Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

ORDER
25.01.2024

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1. By way of the present petition filed under Section 11 of the Arbitration and Conciliation Act, 1996 (hereinafter, referred to as the '*A&C Act*'), the petitioner seeks appointment of Arbitral Tribunal comprising of a Sole Arbitrator to adjudicate the disputes between the parties.
2. Learned counsel for the petitioner submits that the parties had entered into Loan Agreements dated 13.06.2023 and 01.09.2023. It is submitted that the said Loan Agreements contains an arbitration clause (Clause- 37 & 68), which provides that all disputes, with respect to the said agreement, shall be referred to arbitration as per provisions of the A&C Act, and further provides that the place of arbitration would be at Delhi.
3. Disputes having arisen between the parties, petitioner invoked arbitration vide notice dated 13.10.2023, issued under Section 21 of the



A&C Act.

4. The notice of the present petition was issued vide order dated 06.11.2023. The petitioner has filed an affidavit of service. In the affidavit of service, it has been stated that the respondent has duly been served through courier and the same has been received by the respondent. It has been submitted that since the respondent has failed to appear, it seems that he is not interested in contesting the present petition.
5. The scope of inquiry by the court under section 11(6) of the Arbitration and Conciliation Act is very limited to examine whether an arbitration agreement exists between the parties. Reliance can be placed on ***M/S Duro Felguera, S.A. vs Gangavaram Port Limited*** (2017) 9 SCC 729 wherein the court inter-alia held as under:

“The scope of the power under Section 11 (6) of the 1996 Act was considerably wide in view of the decisions in SBP and Co. (supra) and Boghara Polyfab (supra). This position continued till the amendment brought about in 2015. After the amendment, all that the Courts need to see is whether an arbitration agreement exists - nothing more, nothing less. The legislative policy and purpose is essentially to minimize the Court's intervention at the stage of appointing the arbitrator and this intention as incorporated in Section 11 (6A) ought to be respected.”

6. Considering the fact that since the respondent has failed to appear despite being deemed served, the present petition is referred to arbitral tribunal with the following directions:
 - i) The disputes between the parties under the said agreement are referred to DIAC.
 - ii) DIAC shall nominate an Arbitrator to adjudicate the disputes



between the parties.

- iii) 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'). The remuneration of the learned Arbitrator shall be in terms of Schedule IV of the A&C Act or as the parties may agree.
 - 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 on 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.
7. The petition is disposed of in the above terms.

DINESH KUMAR SHARMA, J

JANUARY 25, 2024/AR..