



2024:DHC:8118



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

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Date of Decision : 16.10.2024+ **ARB.P. 1165/2024****KOTAK MAHINDRA PRIME LIMITED**

.....Petitioner

Through: Ms. Namita Singh, Advocate (through
VC)

versus

NIKHIL JAIN

.....Respondent

Through: None.

CORAM:**HON'BLE MR. JUSTICE SACHIN DATTA****SACHIN DATTA, J. (Oral)**

1. The present petition has been filed under Section 11(6) of the Arbitration and Conciliation Act, 1996 (hereinafter '*the A&C Act*') seeking appointment of a sole arbitrator for adjudicating the disputes that have arisen between the parties.

2. The dispute between the parties have arisen in context of a loan agreement dated 27.05.2023 under which the respondent borrowed a sum of Rs. 11,84,000/- (rupees eleven lakhs eighty four thousand only) from the petitioner for purchasing a vehicle. The said agreement contains an arbitration clause as under:-

"Arbitration:

All disputes, differences and /or claim arising out of these presents or in any way touching or concerning the same or as to constructions, meaning or effect hereof or as to the rights and liabilities of the parties hereunder shall be settled by arbitration to be held in accordance with the provisions of the Arbitration and Conciliation Act, 1996 or any statutory amendments thereof and shall be referred to the arbitration of



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*a sole arbitrator to be nominated by the **LENDER**. In the event of death, refusal, neglect, inability or incapability of a person so appointed to act as an arbitrator, the **LENDER** may appoint a new arbitrator. The award of the arbitrator shall be final and binding on all parties concerned. The arbitration proceedings shall be conducted in English language and held at the place more particularly mentioned in the SCHEDULE-I of the present agreement hereunder.”*

3. The petitioner invoked the arbitration clause by notice dated 27.05.2024. However, the same was not replied to by the respondent. None has appeared for the respondent, despite service.
4. The existence of the arbitration agreement is evident from a perusal of the agreement. In terms of the judgment of the Supreme Court in **Perkins Eastman Architects DPC v. HSCC (India) Ltd.**, (2020) 20 SCC 760, **TRF Limited v. Energo Engineering Projects Ltd.** (2017) 8 SCC 377 and **Bharat Broadband Network Limited v. United Telecoms Limited** 2019 SCC OnLine SC 547, it is incumbent on this Court to appoint an independent Sole Arbitrator to adjudicate the disputes between the parties.
5. Accordingly, Ms. Vasundhara Bakhru, Advocate (Mob. No. +919873033384) is appointed as the Sole Arbitrator to adjudicate the disputes between the parties.
6. The learned Sole Arbitrator may proceed with the arbitration proceedings subject to furnishing to the parties requisite disclosure as required under Section 12 of the A&C Act.
7. It is agreed between the parties that the arbitration shall take place under the aegis of and under the rules of Delhi International Arbitration Centre (DIAC). It is directed accordingly.
8. It is clarified that the respondent shall be entitled to raise appropriate jurisdictional objections, if any, as regards the arbitrability/ maintainability



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of the claims sought to be raised, which shall be considered by the learned sole arbitrator on its own merits.

9. Nothing in this order shall be construed as an expression of opinion of this Court on the merits of the matter.

10. The present petition stands disposed of in the above terms.

SACHIN DATTA, J

OCTOBER 16, 2024/dn