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

+ **ARB.P. 1301/2023**

M/S. SINGH FINLEASE PVT. LTD. Petitioner

Through: Ms. Lisha Saha, Advocate.

versus

KAMLESH & ORS. Respondents

Through: Mr. Manish Kumar Singh, Advocate
for R-3.

CORAM:

JUSTICE PRATHIBA M. SINGH

ORDER

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29.01.2024

1. This hearing has been done through hybrid mode.
2. The present petition under Section 11(6) of the Arbitration and Conciliation Act, 1996 (*hereinafter*, '1996 Act') has been filed by the Petitioner-M/s Singh Finlease Pvt. Ltd. seeking appointment of a Sole Arbitrator in terms of Clauses 22 of the Loan Agreement dated 2nd April, 2018.
3. The Petitioner's case is that the Respondent Nos. 1, 2 and 3-Mrs. Kamlesh, M/s. SCA Cargo Logistics Pvt. Ltd. and Ram Kumar Singh availed of a loan facility of Rs.27,61,250/- vide Loan Agreement dated 31st March, 2018 under Loan A/c no. FWDELLAP00109. Further, in terms of the said Loan Agreement, collateral security vide Mortgage Agreement dated 29th May, 2018 was also offered by the Respondent No. 1- Mrs. Kamlesh of a built-up property ad-measuring 15 Biswa out of Khasra No. 653, situated in '*Ext. Lal Dora of Vill. Bijwasan New Delhi*'.



4. As per the petition, the Respondents defaulted in the EMIs and a total of more than Rs.46,00,000/- is stated to be due. The Loan Agreement was terminated on 30th June, 2021 and Clause 22 of the Loan Agreement i.e., the arbitration clause was invoked vide communication dated 20th September, 2021.

5. The Petitioner then appointed its own Id. Sole Arbitrator and filed its claims. In the arbitration proceedings, vide award dated 31st March, 2022, the Respondents were proceeded *ex parte*. In the said award, the Id. Sole Arbitrator rendered an award for a sum of Rs. 84,70,163/- along with interest, jointly. The said award and the appointment of the Id. Sole Arbitrator by the Petitioner was set aside vide order dated 1st September, 2023 in *Execution (Comm.) 286/2022* titled '*M/s. Singh Finlease Pvt Ltd v. Kamlesh*'.

6. However, in the meantime, a sum of Rs.26,14,150/- has been paid by the Respondents. Thereafter, a petition under Section 34 of the 1996 Act was also filed by the Respondents. In view of the challenge raised and bearing in mind the decision of the Apex Court in *Perkins Eastman Architects DPC v. HSCC (India) Ltd. [2019 SCC OnLine SC 1517]*, the execution proceedings were withdrawn by the Petitioner. Hence, the present petition was filed.

7. Mr. Manish Kumar Singh, Id. Counsel entered the appearance for Respondent No. 3.

8. Considering the above background and the service which has already been effected on the Respondents, it is deemed appropriate to appoint a Id. Sole Arbitrator to adjudicate the disputes between the parties.



9. Accordingly, **Justice Vinod Goel (Retd) (M:9910384637)** is appointed as a Sole Arbitrator. The arbitration proceedings shall be conducted under the aegis of Delhi International Arbitration Centre (*hereinafter, 'DIAC'*) as per the DIAC Rules.

10. The parties to appear before the DIAC on 18th March, 2024.

11. The present petition, along with all pending applications is disposed of in the above terms.

PRATHIBA M. SINGH, J.

JANUARY 29, 2024

mr/dn