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

+ **ARB.P. 1311/2023**

KOTAK MAHINDRA PRIME LTD.

..... Petitioner

Through: Mr. Paran Kumar, Adv. with Mr.
Sukrit Kohli, Legal Manager.

versus

ANITA A & ANR.

..... Respondents

Through: Mr. Lalit Valecha, Adv. (VC).

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

ORDER

09.02.2024

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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 an 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 a Loan Agreement bearing no. CF17005238, dated 30.03.2019 vide which the petitioner had advanced a loan of Rs. 7,50,000/- to the respondent. It is submitted that the said Agreement contains an arbitration clause (Clause-31), which provides that all disputes, with respect to the said agreement, shall be referred to arbitration as per provisions of the A&C Act. Learned counsel further submits that the agreement was executed within the jurisdiction of this court.
3. Learned counsel for the respondent submits that the petitioner has



forged and falsely lodged an FIR against the respondents. However, this court is not required to go into the question at the time of making reference to the arbitration.

4. The court at this stage is only required to see the arbitration clause and an arbitral dispute.
5. Learned counsel submits that initially an arbitrator was appointed unilaterally and an award was passed. However, in view of the judgment of the Supreme Court in ***Perkins Eastman Architects DPC & Anr. v. HSCC (India) Limited*** 2019 SCC OnLine SC 1517 the unilateral award is non-est and therefore the present petition has been filed.
6. Learned counsel for the respondent submits that subject to his contentions/objection be remained open the matter may be referred to the learned Arbitrator.
7. Considering that both the parties have consented to the reference to the arbitral tribunal with the following directions:
 - i) The disputes between the parties under the said agreement are referred to the arbitral tribunal.
 - ii) As agreed by both the counsels for the parties, 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.
8. The petition is disposed of in the above terms.

DINESH KUMAR SHARMA, J

FEBRUARY 9, 2024/AR