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

+ **ARB.P. 1327/2023**

OVINGTON FINANCE PVT. LTD. Petitioner

Through: Mr. Aniket Rajput, Adv.

versus

DILAWAR & ORS. Respondents

Through: None.

CORAM:
HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

ORDER
19.03.2024

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I.A. 25117/2023

1. Exemption allowed, subject to all just exceptions.
2. Application stands disposed of.

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3. By way of present petition filed under Section 11(5) 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.
4. Learned counsel for the petitioner submits that the petitioner is an NBFC as constituted under the guidelines of RBI and provided benefits as applicable during the outbreak of COVID-19. In furtherance thereof, the petitioner extended certain loans to the respondent vide loan documentation/agreement dated 04.07.2022 and submits that the



agreement contained the arbitration clause which provides that disputes with respect to the agreement shall be resolved through arbitration as per provisions of A&C Act. It further provides that place of arbitration would be at New Delhi.

5. The loan agreement has been stated to be signed by the respondents.
6. Learned counsel for the petitioner submits that the respondents defaulted in making the payment leading to disputes having arisen between the parties; petitioner invoked arbitration vide notice dated 03.11.2023.
7. Notice of the present petition was also sent to the respondents. The respondents have duly been served through speed post. Affidavit of service along with tracking report has also been filed.
8. None has appeared for the respondent.
9. The conditions have duly been fulfilled as there is an agreement which contains the arbitration clause and the arbitrable dispute has arisen.
10. In view of the above, the present petition is disposed of with the following directions:
 - i) The disputes between the parties under the said agreement are referred to the arbitral tribunal.
 - 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 fee rules of the DIAC Schedule 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.
11. The petition is disposed of in the above terms.

DINESH KUMAR SHARMA, J

MARCH 19, 2024/AR..