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

+ **ARB.P. 1308/2024 & I.A. 37365/2024**

ANAND RATHI GLOBAL FINANCE LIMITEDPetitioner

Through: **Mr. Arvind Jadon, Ms. Taru Saxena,
Advocates**

versus

AAVAS FINANCIERS LIMITEDRespondent

Through: **Mr Rajiv Singh Pilia, Advocate**

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER

% **06.12.2024**

1. The present petition has been filed under Section 11 of the Arbitration and Conciliation Act, 1996 by the Petitioner seeking appointment of an Arbitrator to adjudicate upon the disputes which have arisen between the parties under the Agreement dated 01.06.2023.

2. The facts, in brief are that the Petitioner herein had advanced a loan to one M/s Ambey Bearing & Mill Store (Co-borrowers) through its proprietor Mr. Yogesh Sharma along with Mrs. Kavita Sonar. It is stated that a sum of Rs.53,20,000/- was advanced by the Petitioner to the Respondent. The property i.e. first floor and second floor with roof rights, part of property No.863, admeasuring area 80 Sq. Yards out of Khasra No.10, situated in the area of village Uldhanpur, in the abadi of Near Kali Mata Mandir, Subhash Gas Agency, GT Road, Shahdara, Illaqua Shahdara, Delhi-110032 ("property in question") including all the piece and parcel was given as a



security to secure the loan amount. The title deeds of the property in question were deposited with the Petitioner.

3. It is stated that the account of the borrower was declared as Non-Performing Asset (“NPA”). It is stated that the proceedings Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (“SARFAESI Act”) were initiated by the Petitioner herein. It is stated that when the Petitioner went to the property in question to take symbolic possession under Section 13(4) of the SARFAESI Act, it has come to light that the property has been mortgaged to the Respondent. In the present case there are two NBFCs who have a claim on the property in question whereby disputes have arisen.

4. Learned Counsel for the Petitioner places reliance on Section 11 of the SARFAESI Act which read as under:-

“11. Resolution of disputes Where any dispute relating to securitization or reconstruction or non-payment of any amount due including interest arises amongst any of the parties, namely, the bank or financial institution or [asset reconstruction company] [Substituted by Act No. 44 of 2016.] or [qualified buyer] [Substituted by Act No. 44 of 2016.], such dispute shall be settled by conciliation or arbitration as provided in the Arbitration and Conciliation Act, 1996 (26 of 1996), as if the parties to the dispute have consented in writing for determination of such dispute by conciliation or arbitration and the provisions of that Act shall apply accordingly.”

5. Learned Counsel for the Petitioner also places reliance on the judgment passed by the Apex Court in Transcore v. Union of India, (2008) 1 SCC 125 and the judgment passed by this Court in Bell Finvest India



Limited & Ors v. A.U. Small Finance Bank Ltd., 2022 SCC OnLine Del 3632.

6. In view of the fact that disputes have arisen between the parties, this Court is inclined to appoint an Arbitrator to adjudicate upon the disputes between the parties.

7. Accordingly, Ms. Sangeeta Bharti, Advocate, (Mob. No.9811112863) is appointed as an Arbitrator to adjudicate upon the disputes between the Parties.

8. The arbitration would take place under the aegis of the Delhi International Arbitration Centre (DIAC) and would abide by its rules and regulations. The learned Arbitrator shall be entitled to fees as per the Schedule of Fees maintained by the DIAC.

9. The learned Arbitrator is also requested to file the requisite disclosure under Section 12(2) of the 1996 Act within three weeks of entering on reference.

10. All rights and contentions of the parties in relation to the claims/counter-claims are kept open, to be decided by the learned Arbitrator on their merits, in accordance with law.

11. Needless to say, nothing in this order shall be construed as an expression of this Court on the merits of the contentions of the parties.

12. The present petition stands disposed of in the above terms along with pending application(s), if any.

SUBRAMONIUM PRASAD, J

DECEMBER 6, 2024

RJ