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

+ **ARB.P. 1411/2024**

INDIABULLS HOUSING FINANCE LTD.Petitioner

Through: Mr. Raghav Khanna, Mr. Siddharth
Nayak, Mr. Vibhu Tripathi,
Advocates.

versus

MR. BIJU MON AND ORS.Respondents

Through: Mr. Anubhav Anand Pandey,
Advocate for Respondent No.1
Mr. Bijo Mathew Joy and Ms. Gifty
Mariam Joseph, Advocates.

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER
18.12.2024

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1. The present petition has been filed under Section 11(6) 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 a Loan Agreement dated 18.12.2014.

2. It is stated that the Petitioner had disbursed a loan of Rs.17,56,100/- to the Respondents for which a Property bearing Flat No-GF-1, Ground Floor, 24, Manohar Enclave, Near Balwant Nagar, Thatipur, Gwalior, Madhya Pradesh – 474001 was kept as a security. Respondent Nos.1, 2 and 3 stood surety for the same. Since Respondents defaulted in repayment of loan amount, proceedings under the SARFAESI Act were initiated. It is stated that the aforesaid property which was given as a security has been sold in a public auction and despite the said sale, certain amount is still due and



payable. It is stated that a notice under Section 21 of the Arbitration and Conciliation Act, 1996 invoking arbitration was sent to the Respondents on 02.05.2024. Since the Respondents did not proceed with the matter, the Petitioner has, therefore, approached this Court by filing the present petition for appointment of an Arbitrator.

3. Article 11 of the Loan Agreement dated 18.12.2014, which is an arbitration clause, reads as under:

“ARTICLE 11 – ARBITRATION:

That the Borrower and IHFL agree that agreement shall be construed in accordance with the laws in force in India and in the event that any dispute or difference, arise on any matter relating to arising out of the present agreement, the same shall be referred to the Sole Arbitration of an arbitrator to be appointed by IHFL whose decision shall be final and binding upon the parties. The sole Arbitrator shall conduct the arbitration proceedings in New Delhi/Delhi. It is also mutually agreed between the parties that IHFL would be entitled to invoke the present arbitration agreement even after IHFL would have recalled the Loan/terminated the contract, for any reason whatsoever. It is also agreed between the parties that the arbitration proceedings would be conducted in English only and in no other language.”

4. In view of the fact that disputes have arisen between the parties and the Agreement contains an arbitration clause, this Court is inclined to appoint an Arbitrator to adjudicate upon the disputes between the parties.

5. Accordingly, Ms. Nikita Dewan, Advocate, (Mob. No. 9810510044) is appointed as an Arbitrator to adjudicate upon the disputes between the Parties.



6. 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.
7. The learned Arbitrator is also requested to file the requisite disclosure under Section 12(2) of the 1996 Act within a week of entering on reference.
8. 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.
9. 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.
10. The present petition stands disposed of in the above terms along with pending application(s), if any.

SUBRAMONIUM PRASAD, J

DECEMBER 18, 2024

S. Zakir