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

+ ARB.P. 1982/2024

M/S SANDHU MOTOR FINANCE PVT LTD.Petitioner

Through: Ms. Sonali Arora, Advocate

versus

NITIN KUMAR MAHANI

.....Respondent

Through: Mr. Prateek Mehta, Mr. Vivek
Girrajya, Mr. Puneet Sharma and Mr.
Kamal Garg, Advocates

CORAM:

HON'BLE MS. JUSTICE SWARANA KANTA SHARMA

ORDER

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20.12.2024

1. The instant petition under Section 11(5) of the Arbitration and Conciliation Act, 1996 ('A&C Act'), has been filed on behalf of the petitioner, seeking the appointment of an independent Sole Arbitrator for adjudication of claim of the petitioner, arising out of the Loan Agreement no. SMF/T-8/2019 dated 17.02.2019 ('the Loan Agreement') executed between the parties.

2. The petitioner is a Non-Banking Financial Company, incorporated under the Indian Companies Act, registered with RBI, and having its office at 2A/58, Geeta Colony, Delhi-110031. The case set out by the petitioner is that the respondent had approached the petitioner on 17.02.2019 for obtaining loan for the purpose of purchasing a vehicle. Accordingly, the respondent had entered into the Loan Agreement with the petitioner. The petitioner had sanctioned loan of ₹60,000/- with interest @ 33% p.a., for a period of 12 months, which was payable in equal monthly instalments of ₹6,650/-. However, after availing the loan, the respondent had failed to pay



the regular monthly instalments to the petitioner.

3. Dispute between the parties has arisen on account of alleged non-payment of regular monthly instalments against the loan availed by the respondent under the Loan Agreement, for which a Demand/Recovery notice for a sum of Rs.1,16,583/- (outstanding on 18.10.2020) was sent by the petitioner to the respondent on 19.10.2020. It is stated that since the respondent had failed to pay the monthly instalments, and had not adhered to the schedule as undertaken by him and the addendum agreement, the petitioner was constrained to invoke the arbitration clause of the Loan Agreement as incorporated in Clause 10.14, *vide* invocation letter dated 04.02.2021. Thereafter, Ms. Priyanka Agarwal, Advocate was appointed as an Arbitrator. It is stated that the respondent had appeared before the Arbitrator on a few dates only, and eventually, the award was passed ex-parte in favour of the petitioner. Later, an execution petition was filed by the petitioner, which was withdrawn on 19.04.2024 in view of the decision of Division Bench of this Court in ***Kotak Mahindra Bank v. Narendra Kumar Prajapat:2023:DHC:3705:DB***, with liberty to initiate appropriate proceedings to recover dues.

4. The petitioner states that as of 18.11.2024, a sum of Rs.4,87,718/- is due towards the petitioner. Accordingly, the present petition has come to be filed.

5. Clause 10.14 of the Loan Agreement, which contains the arbitration clause, is set out below:

“Any difference or dispute arising between the parties out the operation of this agreement or renewal thereof, or in any way relating to the rights and liabilities of the parties hereunder the same shall be referred to the sole arbitration of the person



appointed by the financier. The arbitration proceedings shall be conducted in accordance with Arbitration and Conciliation Act 1996 & Rules made there under as amended from time to time...”

6. The learned counsel for the respondent has no objection to the appointment of an independent Sole Arbitrator by this Court, to adjudicate the disputes between the parties.

7. Accordingly, Ms. Shalini Chandra, Advocate, (Mobile No. +91-9437571891) is appointed as the Sole Arbitrator to adjudicate the disputes between the parties.

8. The respondent shall be at liberty to raise appropriate objections as regards jurisdiction / arbitrability which shall be considered by the arbitrator in accordance with law.

9. The respondent shall also be at liberty to file counter-claims before the learned Sole Arbitrator.

10. The learned Sole Arbitrator shall be entitled to fee in accordance with the IVth Schedule of the A&C Act; or as may otherwise be agreed to between the parties and the learned Sole Arbitrator.

11. The learned Sole Arbitrator may proceed with the arbitration proceedings subject to furnishing to the parties requisite disclosure as required under Section 12 of the A&C Act.

12. Needless to say, nothing in this order shall be construed as an expression of opinion of this Court on the merits of the case.

13. The present petition stands disposed of in the above terms.

14. The order be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J

DECEMBER 20, 2024/ns

[Click here to check corrigendum, if any](#)