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ORDER SHEET
AP-COM/478/2025
IN THE HIGH COURT AT CALCUTTA
ORDINARY ORIGINAL CIVIL JURISDICTION
COMMERCIAL DIVISION

M/S ADITYA BIRLA CAPITAL LTD.
VS
M/S BRAJA TRADERS AND ORS.

BEFORE:
The Hon'ble JUSTICE SHAMPA SARKAR
Date: 2nd December, 2025.

Appearance:
Mr. Amar Singh, Adv.
Mr. Ranjit Singh, Adv.
Mrs. Tutul Das Singh, Adv.
Mr. Pranit Biswas, Adv.
Ms. Subharchita Mukherjee, Adv.
Ms. Anusuya Thatai, Adv.
...for the petitioner

The Court:

1. Affidavit of service is taken on record. Despite service, none appears on behalf of the respondents.
2. Under such circumstances, the matter proceeds exparte.
3. This is an application under Section 11 of the Arbitration and Conciliation Act, 1996. The petitioner seeks appointment of a learned Arbitrator in terms of Clause 22 of the Facility Agreement dated May 1, 2023. The said clause provides that all claims and disputes arising out

of the said agreement shall be settled by arbitration. The arbitral Tribunal will consist of a sole arbitrator to be appointed by the lender. The parties agreed that the place of arbitration shall be Delhi or any other place as per the lender's discretion. The courts chosen by the lender, would have exclusive jurisdiction to exercise powers under the Arbitration and Conciliation Act, 1996.

4. The loan was terminated in view of the failure to repay as per the repayment schedule. A demand cum termination notice was issued on November 5, 2024, claiming a sum of Rs. 30,00,384.55 together with interest. The demand notice was duly served. Thereafter, the petitioner invoked the arbitration clause on April 10, 2025.
5. Under such circumstances, the petitioner prays for appointment of a learned Arbitrator on two grounds, first, that the mechanism provided in the agreement for the lender to appoint a sole arbitrator is not permissible in law and that, the disputes and differences still remain unresolved.
6. The agreement provided that the lender would have the discretion to decide on the seat and jurisdiction. Accordingly, the lender had informed the respondents that they had chosen the jurisdiction of the courts at Kolkata. Thus, this application has been filed before this Court.
7. Under such circumstances, the application being AP-COM/478/2025 is disposed of, keeping all points raised by the respondents with regard to the arbitrability of the dispute, admissibility of the claims, limitation etc. open. The dispute is referred to arbitration by the sole Arbitrator.

Ms. Amrita Pandey, (Mob. No. 9432820002), learned Advocate will act as the learned Arbitrator.

8. The learned Arbitrator shall comply with the provisions of Section 12 of the Arbitration and Conciliation Act, 1996. The learned Arbitrator shall be at liberty to fix her remuneration as per the Schedule of the Arbitration and Conciliation Act, 1996.

(SHAMPA SARKAR, J.)