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

+ **ARB.P. 546/2024**

INDIABULLS HOUSING FINANCE LTD.Petitioner

Through: Mr Raghav Khanna, Mr. Siddharth
Nayak and Mr. Shakti Bhatia,
Advocates.

versus

SUNIL KUMAR AGGARWAL & ANR.Respondents

Through: None.

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

10.02.2025

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1. By way of present petition filed under Section 11(6) of the Arbitration and Conciliation Act, 1996 (hereinafter, referred to as the '*A&C Act*'), the petitioner seeks appointment of an Arbitral Tribunal comprising of a Sole Arbitrator, to adjudicate the disputes between the parties.

2. Learned counsel for the petitioner submits that the parties had entered into a Loan Agreement dated 19.04.2017, and Article 12 of the same stipulates resolution of disputes through arbitration and provides for New Delhi to be the place of arbitration. He further states that disputes having been arisen between the parties, a notice dated 03.02.20204 was issued by the petitioner under Section 21 of the A&C Act, to which no response has been received.

3. Learned counsel for the petitioner further states that the respondent Nos. 1 and 2 are the co-borrowers being husband and wife. It is stated that respondent No.1 has been served through email, which did not bounce back,



whereas respondent No.2 could not be served. Thereafter, directions were passed by this Court vide order dated 24.09.2024 for effecting service of respondents by way of publication. It is stated that the said publication was carried out in two national newspapers, namely, '*The Times of India*' and '*Dainik Navajyot*' Jaipur Edition on 13.12.2024. An affidavit of service has been placed on record regarding service by way of publication in the aforesaid newspapers. Accordingly, this Court is of the opinion that the respondents stand duly served by substituted service. However, there is no appearance of behalf of the respondents today.

4. Considering the aforesaid, I am of the considered opinion that the appropriate course would be to refer the parties to appoint an arbitrator to adjudicate upon the disputes. Consequently, the 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) Mr. Kapil Malik, Advocate, (Mob: 9811484409), who is present in Court, is appointed as the Sole 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').
- iv) The learned Arbitrator shall furnish a declaration in terms of Section 12 of the A&C Act prior to entering into the reference.
- v) It is made clear that all the rights and contentions of the parties, including on the existence and validity of the Arbitration agreement, the arbitrability of any of the claim, any other preliminary objection,



need and legality of interim relief, as well as claims on merits of the dispute of either of the parties, are left open for adjudication by the learned Arbitrator. Further, the respondent shall be at liberty to raise counter-claims, if any.

- vi) The remuneration of the learned Arbitrator shall be in terms of DIAC (Administrative Cost and Arbitrators' Fees) Rules, 2018 or as the parties may agree.
- vii) The parties shall approach the learned Arbitrator within two weeks from today.

5. Needless to state, while referring the parties to arbitration, this Court has not expressed any opinion on the merits of the case and all issues pertaining to the claims/counterclaims are left open to be urged before the learned Arbitral Tribunal.

MANOJ KUMAR OHRI, J

FEBRUARY 10, 2025/rd