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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **ARB.P. 760/2024**
INDIABULLS HOUSING FINANCE LTD.Petitioner
Through: Mr. Raghav Khanna, Adv.
versus
JAYESH YOHANNAN AND ANR.Respondents
Through: Mr. Suman Tripathi, Adv.

CORAM:

HON'BLE MR. JUSTICE JASMEET SINGH

ORDER

% **15.04.2025**

1. This is a petition filed under Section 11(6) of the Arbitration and Conciliation Act, 1996 seeking appointment of an Arbitrator for adjudication of disputes between the parties arising out of the Loan Agreement dated 26.03.2015.
2. The arbitration clause is contained as clause 11 of the Loan Agreement and the same 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 or arising out of the present agreement, the same shall be referred to the Sole Arbitrator to be appointed by IHFL whose decision shall be final and binding upon the parties. The sole Arbitrator shall conduct the arbitration proceedings at 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 arbitration proceeding would be conducted in English only and in no other language.”

3. The facts are that the petitioner and the respondent(s) entered into a Loan Agreement dated 26.03.2015, pursuant to which the petitioner disbursed a sum of Rs 25,00,000/- to the respondent(s) against the equitable mortgage of Property situated at Flat No 108, First Floor, Gomathi Enclave, Site No. 1031&1032, Sy No. 126/2, Sri Ananthanagar Phase-2, Kammasandra Village, Attibele Hobli, Anekal Taluk, Bangalore Urban District, Bangalore – 560099.
4. The respondent No. 1 is the principal borrower and the respondent No. 2 is the co-borrower.
5. Since the respondents breached the terms of the Loan Agreement, the petitioner invoked SARFAESI proceedings and the mortgaged property was auctioned and thereafter, sold.
6. It is stated that till date, there are amounts outstanding to the tune of Rs. 9.25 lakhs, which have not been realised.
7. Hence, the present petition has been filed.
8. In the present case, the parties were referred to mediation vide order dated 13.11.2024, however the mediation has failed.
9. Mr. Tripathi, learned counsel for the respondent(s) has no objection to the appointment of an arbitrator.
10. I am satisfied that there are disputes subsisting between the parties and the same can be resolved by way of arbitration mechanism.



11. For the said reasons, the petition is allowed and the following directions are issued:-

- i) Delhi International Arbitration Centre, Delhi High Court, Sher Shah Road, New Delhi (hereinafter, referred to as the 'DIAC') will appoint an Arbitrator out of the Panel of the Advocates maintained by the DIAC.
- ii) The arbitration will be held under the aegis of the DIAC and as per DIAC Rules.
- iii) The remuneration of the learned Arbitrator shall be in terms of DIAC (Administrative Cost and Arbitrators' Fees) Rules, 2018.
- iv) The learned Arbitrator is requested to furnish a declaration in terms of Section 12 of the Act prior to entering into the reference.
- v) It is made clear that all the rights and contentions of the parties, including as to the arbitrability of any of the claim, any other preliminary objection, as well as claims/counter-claims and merits of the dispute of either of the parties, are left open for adjudication by the learned arbitrator.
- vi) The parties shall approach the learned Arbitrator within two weeks from today.

12. The present petition is disposed of in the aforesaid terms.

JASMEET SINGH, J

APRIL 15, 2025/sp