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

+ ARB.P. 807/2025 & I.A. 13247/2025

TATA CAPITAL HOUSING FINANCE LTD

.....Petitioner

Through: Ms. Shobha Gupta, Ms. Akshita Mishra, Ms. Simranjeet Kaur and Ms. Manasvi Negi, Advs.

versus

MR. ARUN KUMAR & ANR.

.....Respondents

Through: Mr. Divyanshu Sarswat, Ms. Garima Chauhan, Mr. Raj Srivastava, Mr. Akash Chowdhary, Mr. Arnav Vats, Ms. Suchita Gautam, Ms. Vasundhra Kashmira, Advs.

CORAM:

HON'BLE MR. JUSTICE JASMEET SINGH

ORDER

% **17.11.2025**

1. This is a petition filed under Section 11 of the Arbitration and Conciliation Act, 1996 seeking appointment of an Arbitrator for adjudication of disputes between the parties.
2. The brief facts are that, the petitioner granted loan to the respondents of Rs. 23,71,000/- vide Sanction Letter dated 25.09.2016. To secure the repayment of the loan amount, respondents had mortgaged the property bearing No. Flat No. A-2-1301, 13th floor, Tower A, Status Residency, Village Tapukara, Alwar, Tijara Road, Tehsil Bhiwadi, Alwar Rajasthan-301019 ("**Mortgage Property**").
3. Pursuant to the Sanction Letter, a Loan Agreement was also executed between the parties.
4. The said Loan Agreement contains an arbitration clause being Clause



No. 12.11, which is extracted below:-

12.11 Dispute Resolution

- a) If any dispute, difference or claim arises between the parties hereto in connection with this Agreement or the Security hereof or the validity, interpretation, implementation or alleged breach of this Agreement or anything done or omitted to be done pursuant to this Agreement or otherwise in relation to the Security hereof, the parties shall attempt in the first instance to resolve the same through negotiation/ conciliation. If the dispute is not resolved through negotiation/ conciliation within thirty days after commencement of discussions or such longer period as the parties agree to in writing, then the same shall be settled by arbitration to be held at Chennai/Delhi/Mumbai in accordance with the Arbitration and Conciliation Act 1996, or any statutory amendments thereof and shall be referred to a person to be appointed by TCHFL. In the event of death, refusal, neglect, inability, or incapability of the person so appointed to act as an Arbitrator, TCHFL may appoint a new arbitrator. The award of the arbitrator shall be final and binding on all parties concerned.
- b) Notwithstanding anything contained hereinabove, in the event due to any change in the legal status of TCHFL or due to any change or amendment in law or notification being issued by the Central Government or otherwise, TCHFL comes under the purview of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 ("SARFAESI Act") or the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 (the "DRT Act"), which enables TCHFL to enforce the security under the SARFAESI Act or proceed to recover dues from the Borrower under the SARFAESI Act and/or the DRT Act, the arbitration provisions hereinbefore contained shall, at the option of TCHFL, cease to have any effect and if arbitration proceedings are commenced but no award is made, then at the option of TCHFL such proceedings shall stand terminated and the mandate of the arbitrator shall come to an end from the date when such law or its change/amendment or the notification, becomes effective or the date when TCHFL exercises its option of terminating the mandate of arbitrator, as the case may be. Provided that neither a change in the legal status of TCHFL nor a change/amendment in law or issuance of notification as referred to in this sub paragraph above, will result in invalidating an existing award passed by an Arbitrator pursuant to the provisions of this Agreement.
- c) The Borrower's liability hereunder shall not be affected, terminated or prejudiced by the death, insolvency or any incapacity of the Borrower, but such liability shall continue in full force and effect and shall be binding on the Borrower's successors as provided in the title and as the case may be.

5. Since the loan account of the respondent was declared as Non-Performing Asset, proceedings under the provisions of Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 and a Demand Notice dated 11.09.2019 was issued to the respondents. After expiry of the statutory period mentioned under the Demand Notice, the petitioner took physical possession of the Mortgage Property. Subsequently, the Mortgaged Property was sold by way of public auction in a sum of Rs. 7,30,000/-. After adjusting the sale amount to the outstanding dues, the balance loss amount of Rs. 32,47,503/- is still due and outstanding.

6. Since there are disputes between the parties, the petitioner invoked



arbitration *vide* legal notice dated 30.09.2024, and thereafter, filed the present petition.

7. Ms. Chauhan, learned counsel appears for the respondents and have no objection to appointment of an Arbitrator.
8. I am satisfied that there exist a valid arbitration clause and dispute between the parties which need to be adjudicated through the arbitral mechanism.
9. For the said reasons, the petition is allowed and the following directions are issued:-
 - i) Mr. Varun Nischal, Advocate (Mob. No. 9811499378) is appointed as a Sole Arbitrator to adjudicate the disputes between the parties.
 - ii) The arbitration will be held under the aegis and rules of the Delhi International Arbitration Centre, Delhi High Court, Sher Shah Road, New Delhi (hereinafter, referred to as the 'DIAC').
 - 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.

10. However, since the respondents are undergoing financial hardship and the respondents want to try and settle the matter through mediation and the petitioner has no objection to the same, the matter is referred to the Delhi High Court Mediation and Conciliation Centre and the parties shall appear on 28.11.2025, at 4:30 p.m.
11. The Arbitrator appointed by this Court today shall enter reference after 12 weeks from 28.11.2025, to enable the parties to arrive at an amicable settlement. Only in case the settlement is not arrived at, the learned Arbitrator will enter reference.
12. Accordingly, the present petition is disposed of with pending applications, if any.

NOVEMBER 17, 2025 / (MS)

JASMEET SINGH, J