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

+ **ARB.P. 1072/2024**

MONEYWISE FINANCIAL SERVICES PVT LTDPetitioner

Through: Mr. Mehvish Khan, Mr. Aman
Choudhary and Ms. Arunima Sinh
Jadaun, Advocates.

versus

**VENUS POWER PROJECTS PRIVATE LIMITED THROUGH ITS
DIRECTORS AND OTHERS**Respondents

Through:

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER

17.01.2025

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1. The present petition has been filed under Section 11 of the Arbitration and Conciliation Act, 1996 by the Petitioner seeking appointment of an Arbitrator to adjudicate upon the disputes which have arisen between the parties under the Loan Agreement dated 28.12.2018.

2. The facts of the case reveal that the Petitioner advanced a loan to the tune of Rs.20 lacs to the Respondents for expansion of their business. It is stated that the said loan amount was repayable in 36 installments. It is stated that the Respondents breached the terms and conditions of the Loan Agreement dated 28.12.2018 and defaulted in making payments to the Petitioner. It is stated that the said Loan Agreement was recalled on 20.11.2021.

3. Since the Respondents breached the terms and conditions of the Loan Agreement dated 28.12.2018, a notice under Section 21 of the Arbitration and Conciliation Act, 1996 invoking arbitration was issued on 20.11.2021 calling upon the Respondents to pay a sum of Rs.11,06,409/-.

4. Notice in the petition was issued on 23.07.2024. On 12.09.2024, it

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was noted that Respondent No.1 had not been served till that date. However, Respondent No.2 was present in Court and submitted that he is competent to represent Respondents No.1 and 4. Meaning thereby, service on Respondents No.1, 2 and 4 has been affected on 12.09.2024. Respondent No.3 has been served through publication. The affidavit of service and citation has been filed in Court. Service is therefore complete. The Respondent No.2 has appeared on 12.09.2024 but there is no appearance on behalf of Respondent No.2 today.

5. In view of the fact that service is complete, this Court is proceeding with the matter.

6. Clause 10.1 of the Loan Agreement dated 28.12.2018 contains an Arbitration Clause which reads as under:-

“10.1 Arbitration

Any disputes, differences, controversies and questions directly or indirectly arising at any time hereafter between the Parties or their respective representatives or assigns, arising out of or in connection with this Agreement (or the subject matter of this Agreement), including, without limitation, any question regarding its existence, validity, interpretation, construction, performance, enforcement, rights and liabilities of the Parties, or termination ("Dispute"), shall be referred to a sole arbitrator duly appointed by the Lender. The language of the arbitration shall be English. The seat of the arbitration shall be at New Delhi and the language of proceedings shall be English. The award rendered shall be in writing and shall set out the reasons for the arbitrator's decision. The costs and expenses of the arbitration shall be borne equally by each Party, with each Party paying for its own fees and costs including attorney fees, except as may be determined by the arbitration tribunal. Any award by the arbitration tribunal shall be final and binding”



7. The Arbitration Clause shows that the seat of the arbitration is in Delhi. Therefore, this Court is competent to entertain the instant petition.

8. In view of the fact that disputes have arisen between the parties and there is an arbitration clause in the Loan Agreement dated 28.12.2018, and the Respondents have not repaid the loan in accordance with the Loan Agreement, this Court is inclined to appoint an Arbitrator to adjudicate upon the disputes between the parties.

9. Accordingly, Mr. Shivam Sachdeva, Advocate, (Mobile No.9971358035) is appointed as an Arbitrator to adjudicate upon the disputes between the Parties.

10. The arbitration would take place under the aegis of the Delhi International Arbitration Centre (DIAC) and would abide by its rules and regulations. The learned Arbitrator shall be entitled to fees as per the Schedule of Fees maintained by the DIAC.

11. The learned Arbitrator is also requested to file the requisite disclosure under Section 12(2) of the 1996 Act within a week of entering on reference.

12. All rights and contentions of the parties in relation to the claims/counter-claims are kept open, to be decided by the learned Arbitrator on their merits, in accordance with law.

13. Needless to say, nothing in this order shall be construed as an expression of this Court on the merits of the contentions of the parties.

14. The present petition stands disposed of in the above terms along with pending application(s), if any.

SUBRAMONIUM PRASAD, J

JANUARY 17, 2025

RJ