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

+ **ARB.P. 1326/2023**

OVINGTON FINANCE PVT. LTD.Petitioner

Through: Mr. Aniket Rajput, Advocate.

versus

HARINDER NAGAR & ANR.Respondents

Through: None.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

% **01.08.2025**

1. This petition is filed by the Petitioner under Section 11(6) of Arbitration and Conciliation Act, 1996 ('1996 Act') for appointment of a Sole Arbitrator.

2. To the extent necessary relevant facts as pleaded by the Petitioner are that a loan was sanctioned by the Petitioner to the Respondents on 12.03.2019 for a sum of Rs. 5 lakhs and a Loan Agreement was executed on 13.09.2019. The loan was given against mortgage of a property and the loan amount was to be repaid in 60 months. However, Respondents defaulted in repayment of the loan and as on 02.11.2023 the outstanding liability of the Respondents was to the tune of Rs.2,99,558/-. Since the Loan Agreement contains an arbitration clause, Petitioner sent an invocation notice on 03.11.2023 to the Respondents under Section 21 of 1996 Act calling upon the Respondents to appoint an Arbitrator with the mutual consent of the parties, however, despite receipt of notice, Respondents failed to appoint the Arbitrator.

3. Notice was issued in the petition on 14.12.2023 through all permissible modes. As the Petitioner was unable to serve the Respondents,



permission was sought on 03.12.2024 to serve through substituted service. On 06.02.2025, Court allowed the application being I.A. No. 3103/2025 for substituted service of the Respondents. On 28.03.2025, learned Joint Registrar recorded that publication was carried out in newspaper 'Statesman' on 14.03.2025 and in 'Amar Ujala' on 16.03.2025. Citations along with affidavit of service have been filed by the Petitioner. None appeared for the Respondents on 02.04.2025 and in the interest of justice, the petition was adjourned to 17.04.2025 making it clear that if Respondents did not appear on the next date, they shall be set *ex parte*. None appeared on 17.04.2025 and 16.05.2025 for the Respondents and the matter was adjourned for today.

4. This is the second call of the matter. None appeared for the Respondents on the first call and none appears on the second call. It is evident that Respondents are not interested in contesting the present petition and are accordingly set *ex parte*.

5. The Loan Agreement executed between the parties contains an arbitration clause, which read as follows:-

"That the borrower and OFP 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 of an arbitration to be appointed by OFPL 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 OFPL would be entitled to invoke the present arbitration agreement even after OFPL would have recalled the Loan/Terminated the Contract, for any reason whatsoever. It is also agreed between the parties that arbitration proceedings would be conducted in English only and in no other language, The arbitration shall be conducted in accordance with the Arbitration and Conciliation Act, 1996."



6. Invocation notice sent by the Petitioner on 03.11.2023 was duly served on the Respondents but they failed to appoint the Arbitrator. Existence of the arbitration clause is undisputed between the parties and therefore there is no impediment in appointing a Sole Arbitrator to adjudicate the disputes between the parties.
7. Accordingly, this petition is allowed requesting the Coordinator, Delhi International Arbitration Centre ('DIAC') to appoint a Sole Arbitrator. Arbitration proceedings will be held under the aegis of DIAC and as per its Rules. Fee of the Arbitrator shall be as per the DIAC (Administrative Cost and Arbitrators' Fees) Rules, 2018.
8. Learned Arbitrator shall give disclosure under Section 12 of the 1996 Act before entering upon reference.
9. It is made clear that this Court has not expressed any opinion on the merits of the case and all rights and contentions of the respective parties are left open.
10. Petition is disposed of in the aforesaid terms.

JYOTI SINGH, J

AUGUST 01, 2025/Shivam