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

+ **ARB.P. 1293/2024**

OVINGTON FINANCE PVT. LTD.Petitioner

Through: Dr.Priyanka, Mr.Aniket Rajput and
Ms.Noor E Amna, Advocates

versus

MR.RAJBIR & ORS.Respondents

Through: None

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

% **18.02.2025**

1. By way of present petition filed under Section 11(5) of the Arbitration and Conciliation Act, 1996 (hereinafter, referred to as the 'A&C Act'), the petitioner seeks appointment of Arbitral Tribunal comprising of a Sole Arbitrator, to adjudicate upon the disputes between the parties.
2. Learned counsel for the petitioner submits that the parties had entered into a Loan Agreement dated 23.12.2020, Article 12 of which provides that disputes arising between the parties with respect to the subject Agreement shall be resolved through arbitration by a Sole Arbitrator. It further stipulates that the venue of arbitration shall be at New Delhi.
3. Disputes having arisen between the parties, the petitioner invoked arbitration vide notice dated 03.11.2023 issued under Section 21 of the A&C Act.



4. Notice was issued to the respondents vide order dated 22.08.2024. Thereafter, an affidavit of service has been filed by the petitioner stating that all the respondents have been served through speed post. The affidavit is also accompanied by a tracking report showing the status of service as '*Item Delivered*'. Additionally, respondent No.2, who is the wife of respondent No.1, has also been served by way of *dasti*. Similarly, *dasti* notice has also been served to the wife of respondent No.3. In light of the above, all respondents are held to be served. Today, however, neither the respondents are represented nor any reply has been filed on their behalf. It appears that the respondents have no objection to the reference of disputes to the Arbitral Tribunal.

5. Considering the fact that despite being served, the respondents have chosen to not appear today and since there is no reply or objection filed on their behalf, the respondents are deemed to have consented to the reference of the present dispute to Arbitration before a Sole Arbitrator.

6. In view of the above, the present petition is disposed of with the following directions:

- i) The disputes between the parties under the said agreement are referred to Delhi International Arbitration Centre, Delhi High Court, Sher Shah Road, New Delhi (hereinafter, referred to as the 'DIAC') who shall nominate a Sole Arbitrator.
- ii) The arbitration will be held under the aegis of DIAC. 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.



- iii) The learned Arbitrator shall furnish a declaration in terms of Section 12 of the Act prior to entering into the reference.
- iv) It is made clear that all the rights and contentions of the parties, including on the existence and validity of the Arbitration agreement, arbitrability of any of the claim/counter claim, any other preliminary objection, need and legality of interim relief, as well as contentions on merits of the dispute by either of the parties, are left open for adjudication by the learned Arbitrator.
- v) The parties shall approach DIAC within two weeks from today.

MANOJ KUMAR OHRI, J

FEBRUARY 18, 2025

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