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

\+ ARB.P. 1466/2024

LORD MAHESH BENEFICIARY OF WOODLAND TRUST

.....Petitioner

Through: Mr. Samrat Nigam, Sr. Adv with Mr. Prashant Batra, Adv.

versus

M/S MEDIPOL PHARMACEUTICAL INDIA PVT LTD

.....Respondent

Through: Mr. Samman Vardhan Gautam, Ms. Khushi Sharma, Ms. Priyam Tiwari, Advs.

12

\+ ARB.P. 1468/2024

GODDESS SITA BENEFICIARY OF WOODLAND TRUST

.....Petitioner

Through: Mr. Samrat Nigam, Sr. Adv with Mr. Prashant Batra, Adv.

versus

M/S MEDIPOL PHARMACEUTICAL INDIA PVT LTD

.....Respondent

Through: Mr. Samman Vardhan Gautam, Ms. Khushi Sharma, Ms. Priyam Tiwari, Advs.

13

\+ ARB.P. 1469/2024

GODDESS VESHNO DEVI BENEFICIARY OF WOODLAND TRUST

.....Petitioner

Through: Mr. Samrat Nigam, Sr. Adv with Mr. Prashant Batra, Adv.

versus

M/S MEDIPOL PHARMACEUTICAL INDIA PVT LTD

.....Respondent

Through: Mr. Samman Vardhan Gautam, Ms. Khushi Sharma, Ms. Priyam Tiwari, Advs.

14

\+ ARB.P. 1470/2024

LORD SHANKER BENEFICIARY OF WOODLAND TRUST

.....Petitioner

Through: Mr. Samrat Nigam, Sr. Adv with Mr. Prashant Batra, Adv.

versus

M/S MEDIPOL PHARMACEUTICAL INDIA PVT LTD

.....Respondent

Through: Mr. Samman Vardhan Gautam, Ms. Khushi Sharma, Ms. Priyam Tiwari, Advs.

15

+ ARB.P. 1471/2024

LORD RAM CHANDRA BENEFICIARY OF WOODLAND TRUST

.....Petitioner

Through: Mr. Samrat Nigam, Sr. Adv with Mr. Prashant Batra, Adv.

versus

M/S MEDIPOL PHARMACEUTICAL INDIA PVT LTD

.....Respondent

Through: Mr. Samman Vardhan Gautam, Ms. Khushi Sharma, Ms. Priyam Tiwari, Advs.

CORAM:
HON'BLE MR. JUSTICE JASMEET SINGH

O R D E R

% **11.07.2025**

1. These five petition(s) have been filed under section 11 of the Arbitration and Conciliation Act, 1996, by five distinct petitioner(s), each stated to be a beneficiary of the Woodland Trust, against the same respondent i.e. M/S Medipol Pharmaceutical India Pvt. Ltd. The petitioner(s) seek the appointment of an arbitrator for the adjudication of disputes arising out of five separate Loan Agreement(s) executed on 06.02.2015 between the respective petitioner(s) and the respondent.

2. The facts are that each petitioner advanced a loan of Rs. 13.50 lakhs to

the respondent in two instalments i.e. sum of Rs. 10 lakhs and Rs. 3.50 lakhs through two different bank transactions. There is, however, a variation in the dates of advancement of loan across the petitions. In (i) ARB. P. 1466/2024 the petitioner advanced ₹10,00,000/- on 12.08.2013 and ₹3,50,000/- on 26.09.2013, (ii) in ARB. P. 1468/2024 the petitioner advanced, Rs. 10,00,000/- on 10.09.2013 and Rs. 3,50,000/- on 25.09.2013, (iii) in ARB. P. 1469/2024 the petitioner advanced, Rs. 10,00,000/- on 10.09.2013 and Rs. 3,50,000/- on 26.09.2013, (iv) in ARB. P. 1470/2024 the petitioner advanced, Rs. 10,00,000/- on 10.09.2013 and Rs. 3,50,000/- on 25.09.2013 and (v) in ARB. P. 1471/2024 the petitioner advanced, Rs. 10,00,000/- on 12.08.2013 and Rs. 3,50,000/- on 26.09.2013. Pursuant to this, five corresponding Loan Agreement(s) were executed on 06.02.2015 between each petitioner and the respondent containing an arbitration clause being Clause 6.

3. As per the petitioner(s), following the execution of the Loan Agreement(s) dated 06.02.2015, the respondent made multiple interest payments directly into the bank account of each petitioner. Additional loans were also extended under the said Agreement(s). However, no interest payments were made by the respondent in the last two financial years i.e. 2021–2022 and 2022–2023, therefore in accordance with Clause 2 of the Loan Agreement(s), the accrued interest for these periods was capitalized into the principal amount. Further, the respondent only deposited the Tax Deducted at Source (TDS) on the aforesaid interest amount up to 31.03.2022 with the Tax department.

4. Learned senior counsel for the petitioner(s) state that the respondent

has failed to deposit the TDS deducted on the interest amount for the financial year 2022-2023 with the concerned department. Due to the respondent's failure to make timely payment of interest and deposit the TDS deducted with the concerned department, the petitioners addressed individual emails dated 03.01.2024 demanding repayment of the outstanding amounts under the respective Loan Agreements. The amounts demanded were: (i) in ARB. P. 1466/2024, ₹39,91,514/- comprising ₹36,72,531/- towards principal and ₹3,18,983/- towards interest; (ii) in ARB. P. 1468/2024, ₹39,05,809/- comprising ₹35,93,683/- towards principal and ₹3,12,126/- towards interest; (iii) in ARB. P. 1469/2024, ₹39,88,924/- comprising ₹36,70,158/- towards principal and ₹3,18,766/- towards interest; (iv) in ARB. P. 1470/2024, ₹39,88,669/- comprising ₹36,69,923/- towards principal and ₹3,18,746/- towards interest; and (v) in ARB. P. 1471/2024, ₹40,04,961/- comprising ₹36,84,913/- towards principal and ₹3,20,048/- towards interest.

5. Despite receipt of the notice, the respondent failed to comply, clearly indicating their unwillingness to honour obligations under the Loan Agreement. Due to the non-compliance, the petitioner(s) sent a notice dated 31.01.2024 invoking clause 6 of the Loan Agreement(s) and nominated Sh. Neeraj Tyagi as the arbitrator and further asked the respondent to give consent within 7 days from the receipt of said notice, however the respondent failed to reply.

6. Mr. Gautam, learned counsel for the respondent has raised objections regarding the maintainability of the petition(s).He states that in the present cases, the loans are of the year 2013 and the purported

Agreement(s) are dated 06.02.2015. Hence, the petitions are time-barred. He has also drawn my attention to the letter of the Chartered Accountant dated 26.06.2014, wherein no interest was to be paid on the deposit.

7. Additionally, he states that the so-called Agreement(s) dated 06.02.2015 are fraudulent and forged as the loan advanced in 2013 is being sought to be legitimised through the Loan Agreement(s) executed on 06.02.2015, which is nearly one and a half years later.

8. He further states that in all these petition(s), even though the date of advancing of loan are on two different dates in the year 2013, but all the Agreement(s) have been executed on 06.02.2015.

9. He also states that the Loan Agreement(s) have been signed by the son of Mr. Umesh Gupta on behalf of the petitioner, and by Mr. Umesh Gupta himself for and on behalf of the respondent and the affidavit filed supporting the petitions is by Mr. Umesh Gupta. Hence, it is stated that it is Mr. Umesh Gupta who has forged and fabricated the documents, and thereafter filed the present petition(s) based on such forged material.

10. I have heard learned counsel for the parties.

11. In the present case, the scope of the referral Court under Section 11 of the Arbitration and Conciliation Act, 1996 is limited and narrowly circumscribed. At this stage, the Court is not required to adjudicate upon the merits of the dispute or determine whether a claim is valid or enforceable. Instead, its role is confined to examining whether a valid arbitration agreement exists between the parties as held in ***SBI General Insurance Co. Ltd. v. Krish Spinning, 2024 INSC 532.***

12. The Loan Agreement(s) contain the arbitration clause being clause 6 which reads as under:-

> *"6. In case of any dispute or differences between the parties, either of the party may refer their dispute or differences to arbitration proceedings with the complete authority and trust on the Advocate Neeraj Tyagi (Enrl No. D/763/1993). The observation decision and direction of the aforenoted sole arbitrator shall be binding on both the parties. The provisions of Arbitration and conciliation Act, 1996 shall be applicable to arbitration. All expenses of the arbitration proceedings shall be borne by the borrower/The First party."*

13. One of the objections raised by the learned counsel for the respondent pertains to the alleged forgery and fabrication of the Loan Agreement(s) dated 06.02.2015. In support of this contention, the respondent has relied upon the judgment in ***Bharat Rasiklal Ashra v. Gautam Rasiklal Ashra**, **(2012) 2 SCC 144***, particularly paragraph 16 to state that the question of fraud and fabrication has to be decided by this Court. Para 16 of the said judgement reads as under:

> *"16. The learned counsel for the first respondent next submitted that if the Chief Justice or his designate is required to examine the allegations of fabrication and forgery made by a party in regard to the contract containing the arbitration agreement, before appointing an arbitrator under Section 11 of the Act, the proceedings under the said section will cease to be a summary proceedings, and become cumbersome and protracted, necessitating recording of evidence, thereby defeating the object of the Act. In our considered view this apprehension has no relevance or merit. Existence of a valid and enforceable arbitration agreement is a condition precedent before an arbitrator can be appointed under Section*

11 of the Act. When serious allegations of fraud and fabrication are made, it is not possible for the court to proceed to appoint an arbitrator without deciding the said issue which relates to the very validity of the arbitration agreement. Therefore the fact that the allegations of fraud, forgery and fabrication are likely to involve recording of evidence or involve some delay in disposal, are not grounds for refusing to consider the existence of a valid arbitration agreement."

14. The explanation given by Mr. Nigam, learned senior counsel for the petitioner(s), that the Loan Agreement(s) were signed on behalf of the petitioner(s) by the son of Mr. Umesh Gupta, and by Mr. Umesh Gupta himself for and on behalf of the respondent, is found to be plausible. It has been submitted that Mr. Gupta was functioning both as a trustee of the Woodland Trust and as a director of respondent company, thereby being duly authorised in both capacities. The affidavit in support of the petition affirmed by Mr. Gupta further substantiates his role in the transactions.

15. Therefore, *prima facie* it does not seem to be a fraudulent transaction. Mr. Gupta was very much within his right to authorise his son to sign on behalf of the trust and sign himself on behalf of the petitioner(s). The fact that he still continues to be a trustee and has affirmed the affidavit also is permissible in law. Nothing contrary has been brought to my notice that the same cannot be done.

16. The ledger accounts reflects the last credit entry towards interest on 21.08.2021. The notice invoking arbitration was issued on 31.01.2024. Accordingly, the initiation of proceedings falls within the prescribed three year limitation period.

17. The next submission of Mr. Gautam, learned counsel for the respondent, pertains to the Chartered Accountant's certificate indicating that no interest was payable on the deposit. This has been explained by the petitioner(s), who submits that although interest was credited, it was not withdrawn and was instead re-ploughed into the company. Consequently, the accrued interest was added to the principal, thereby increasing the overall loan amount.

18. I am satisfied that, for the said reasons stated above, the matters can be and should be referred to arbitration.

19. In light of the foregoing, the petition(s) are allowed and the following directions are issued:-

    i) Since the issues are common, Mr. J.R. Aryan (Mob. No. 9958697034) is appointed as a Sole Arbitrator to adjudicate all 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.

vi) The parties shall approach the learned Arbitrator within two weeks from today.

20. The present petition(s) are disposed of in the aforesaid terms.

JASMEET SINGH, J

JULY 11, 2025 / (MS)