



\$~17

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

+ **ARB.P. 1634/2025**

TATA CAPITAL HOUSING FINANCE LTD

.....Petitioner

Through: Ms. Sandhya Chawla, Adv.

versus

KAYGEE SHOETECH PRIVATE LIMITED & ORS.

.....Respondents

Through: None

CORAM:

HON'BLE MR. JUSTICE JASMEET SINGH

ORDER

24.11.2025

%

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 of the case are that the petitioner sanctioned a home loan to the tune of Rs. 4,72,00,000/- to the respondents against the two mortgaged properties which are as under:-
 - Flat No. 1A along with one Servant's Room on the 1st Floor and Garage No. B on the Ground Floor, Meghdoot, Premises No. A/12/1A, Rowland Row, Ward No. 69, P.S. Ballygunge, Kolkata-700 020; and
 - Flat No. 3C, Scheme No. IVM, P-34, CIT Road, Kolkata - 700 010.
3. Thereafter the parties entered into a Facility Agreement dated 29.05.2016.



4. The said Facility Agreement contained an arbitration clause being Clause No. 12.18 which reads as under:-

“12.18 DISPUTE RESOLUTION

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 in 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, TOHFL may appoint a new arbitrator. The award of the arbitrator shall be final and binding on all parties concerned.

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."

5. The Flat No. 3C, Scheme No. IVM, P-34, CIT Road, Kolkata – 700010 was released on respondents paying Rs. 33 lakhs towards release of the mortgaged property.
6. Since there were defaults on part of the respondents, the petitioner sold the second property being Flat No. 1A along with one Servant's Room on the 1st Floor and Garage No. B on the Ground Floor, Meghdoot, Premises No. A/12/1A, Rowland Row, Ward No. 69, P.S.



Ballygunge, Kolkata-700 020, but the same was not sufficient to meet the dues of the petitioner.

7. Since there were still amounts outstanding and unresolved disputes between the parties, the petitioner invoked arbitration *vide* legal notice dated 01.08.2025 and thereafter filed the present petition.
8. As per the affidavit of service, the respondents have been served through speed post and courier. Despite service, there is nobody appearing on behalf of the respondents.
9. I am satisfied that there exists a valid arbitration clause and there are dispute between the parties which need to be adjudicated through the arbitral mechanism.
10. For the said reasons, the petition is allowed and the following directions are issued:-
 - i) Ms. Justice Shalinder Kaur, (Retd. Judge, Delhi High Court) (Mob. No. 8130666013 / 9650448075) 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.
- vi) The petitioner shall approach the learned Arbitrator within two weeks from today.

11. The present petition is disposed of in the aforesaid terms.

NOVEMBER 24, 2025 / (MS)

JASMEET SINGH, J