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

+ **ARB.P. 1862/2024**

M/S PAISALO DIGITAL LIMITEDPetitioner

Through: **Mr. Harshal Kumar, Advocate.**

versus

SUN CORP & ORS.Respondents

Through: **Ms. Nidhi Mohan Parashar,**
Mr. Vikrant Kumar and Mr. Deepak Yadav,
Advocates.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

01.04.2025

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1. This petition has been preferred on behalf of the Petitioner under Section 11(6) of the Arbitration and Conciliation Act, 1996 ('1996 Act').
2. As per the averments in the petition, this is a second round of litigation between the parties. In the first round of litigation, Petitioner had invoked the arbitration clause pertaining to loan account No. LD3764. As per the Petitioner, Respondent No. 1 had approached the Petitioner Company for availing loan and after executing the requisite documents, loan of Rs.2,50,00,000/- was extended to Respondent No. 1 vide hypothecation/loan Agreement dated 02.03.2015 and Respondents No. 2 to 4 stood as guarantors. However when Respondent No. 1 failed to pay the outstanding dues, Petitioner invoked the arbitration agreement and the arbitral proceedings commenced. Arbitral award dated 10.07.2019 was challenged by the Respondents in OMP (COMM) No. 124/2019 before the learned Trial Court and the petition was allowed vide order dated



08.01.2024 on ground of unilateral appointment of the Arbitrator. In an appeal filed by the Petitioner being FAO (COMM) 33/2024, Petitioner took an objection to the jurisdiction of the Trial Court to entertain the objections under Section 34 of the 1996 Act. Division Bench vide order dated 04.04.2024 agreed with the contention of the Petitioner. Since the Petitioner also pointed out that the award had been set aside on ground of unilateral appointment of arbitrator, the Court granted permission to the Petitioner to take steps for appointment of an Arbitral Tribunal in accordance with law. Pursuant to the liberty granted, Petitioner has filed the present petition.

3. From the chronology of dates and events narrated in the petition, it is clear that after the order of the Division Bench, Petitioner has not issued a notice to the Respondents invoking arbitration under Section 21 of the 1996 Act. Division Bench had granted liberty to take steps for appointment of the Arbitral Tribunal in accordance with law, which the Petitioner construes to be a liberty to file the present petition without issuing a notice of invocation, which is impermissible in light of the provisions of Section 11 of the 1996 Act. In light of this, this petition is disposed of granting liberty to the Petitioner to invoke the arbitration clause in accordance with Section 21 of the 1996 Act read with Section 11(4) and thereafter approach the Court for appointment of the Arbitrator in case of failure of the Respondents to so appoint.

JYOTI SINGH, J

APRIL 1, 2025/B.S. Rohella/shivam