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

+ **ARB.P. 417/2025**

AXIS FINANCE LIMITED

.....Petitioner

Through:

versus

SHOUKAT ALI & ORS.

.....Respondents

Through:

CORAM:

HON'BLE MR. JUSTICE JASMEET SINGH

ORDER

04.04.2025

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I.A. 5853/2025

1. Exemption is granted subject to all just exceptions.
2. The applicant(s) shall file legible and clearer copies of exempted documents, compliant with practice rules before the next date of hearing.
3. The application is disposed of.

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4. This is a petition filed under Section 11(6) of Arbitration and Conciliation Act, 1996, seeking appointment of an Arbitrator to adjudicate the disputes between the parties.
5. The petitioner sanctioned and disbursed a loan of Rs.14,16,500/- in favour of respondent No.1 (borrower) and the respondents Nos. 2 and 3 (co-borrowers) for a period of 15 years and the same shall be repaid



in monthly instalment of 15,980/- to the petitioner. To secure the loan, the respondents mortgaged a property being Flat Maaudo ka Chowk, Kaliyon Ki Gali, Hathiram Oda, Jodhpur, Rajasthan-342001.

6. Since the respondents failed to make the payments, the petitioner sent a notice dated 10.10.2024 invoking the Arbitration Clause, being clause No. 29 of Facility Agreement. The same is extracted below:-

“29. JURISDICTION & DISPUTE RESOLUTION

(a) The Terms of Facility shall be governed by the laws of India and shall be subject to the exclusive jurisdiction of courts and tribunals in Mumbai and/or Delhi, to settle any disputes, which may arise out of, or in connection with, this indenture and that, accordingly, any legal action, suit or proceedings arising out of, or In connection with, the Terms of Facility may be brought in those courts and tribunals and the Borrower irrevocably submits to and accepts for itself and in respect of its property, generally and unconditionally, the jurisdiction of those courts and tribunals.

(b) court or tribunal of competent jurisdiction, nor shall the taking of proceedings in one or more jurisdictions preclude the taking of proceedings in any other jurisdiction whether concurrently or not and the Borrower, irrevocably submits to, and accepts, generally and unconditionally, the jurisdiction of such courts and tribunals, and the Borrower irrevocably waives any objection it may have now or in the future on the ground



of an Inconvenient forum.

(c) Notwithstanding sub-clause (a) above, the Lender may, at its option, choose to settle any disputes which may arise out of or in connection with this Agreement by referring the same to arbitration in accordance with the (Indian) Arbitration and Conciliation Act, 1996 as amended from time to time. The arbitral tribunal shall comprise of a sole arbitrator appointed by the Lender. The arbitration shall be held at Mumbai and/or Delhi, as may be determined by the Lender and the proceedings of such arbitration shall be conducted in English. The Parties hereby agree that the decision of the arbitrators shall be final and binding. The Parties hereby also agree that the cost of the arbitration proceeding shall be borne by the parties in accordance with the directions of the Arbitrator.

(d) Without prejudice to the generally of the clause, the lender shall have the right to seek remedies under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act; 2002, as applicable, and/or the Recovery of Debts and Bankruptcy Act, 1993 (DRT Act) in the event the legal status of the Lender changes or the law is amended or made to enable the Lender to proceed to recover dues from the Borrower under the DRT Act, in the event ion to Its rights .under the Finance Documents. Provided, however, that neither



any such change in legal status of Lender nor change in law referred to hereinabove, shall Invalidate an existing award passed by the arbitral tribunal pursuant to sub-clause (b) above.”

7. It is stated by the learned counsel for the petitioner that the petitioner has not initiated any proceedings under the SARFAESI Act and hence, the entire amount is due and payable to the petitioner as the entire claim in the notice is due and payable.
8. As per the said Agreement, the e-mail ID of the respondents is shown as ak659937@gmail.com.
9. The respondents have been served at the abovesaid email id. Despite service, there is nobody appearing on behalf of the respondents.
10. Since there are disputes between the parties, the petition is allowed and the following directions are issued:-
 - i) Ms. Mukta Sharma (Advocate) (Mob. No. 9811134378) is appointed as a Sole Arbitrator to adjudicate the disputes between the parties.
 - ii) The arbitration will be held under the aegis 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.
11. The present petition is disposed of in the aforesaid terms.

JASMEET SINGH, J

APRIL 4, 2025/pk

Click here to check corrigendum, if any