



\$~8

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

+ ARB.P. 240/2026, I.A. 3142/2026 & I.A. 3143/2026

R MAYILVAGANAN PROP M/S R R THEVAR CHICKEN &
ORS.

.....Petitioners

Through: Mr. S Nandakumar, Sr. Adv. with Ms.
Deepika Nandakumar & Ms.
Kanimozhi J, Adv.

versus

HERO FINCORP LIMITED

.....Respondent

Through: Mr. Rahul Gupta, Adv.

CORAM:

HON'BLE MR. JUSTICE AVNEESH JHINGAN

ORDER

02.04.2026

%

1. The present petition is filed under Section 11 of the Arbitration and Conciliation Act, 1996 (for short 'the Act') for appointment of an arbitrator.
2. The brief facts are that the petitioners availed two loan facilities from the respondent. Dispute arose between the parties. Clause 13 of the agreement provided for dispute resolution through arbitration. On 22.11.2019 the respondent unilaterally appointed the sole arbitrator. Aggrieved of violation of Section 12(5) of the Act, the present petition is filed.
3. Learned counsel for the respondent on instructions contends that there is no objection to the appointment of the arbitrator, however, submits that a petition under Section 14 of the Act should be filed by the petitioner.
- 3.1 At this stage, learned counsel for the petitioner contends that this petition be treated as petition under Section 14 of the Act. The prayer is



accepted. The law is settled as laid down in **Bhadra International (India) Pvt. Ltd. & Ors. v. Airports Authority of India**, 2026 INSC 6 and of the Division Bench of this Court in **Mahavir Prasad Gupta and Sons v. Govt. of NCT of Delhi**, 2025 SCC OnLine Del 4241 that the employee of the parties to the disputes can neither be appointed as an arbitrator nor can appoint or nominate an arbitrator unless there is an express written waiver by the parties under Section 12(5) of the Act. Consequently, the appointment of the arbitrator is in violation of Section 12(5) of the Act.

4. Accordingly, the petition is allowed by appointing Mr. Rakesh Siddhartha, District & Sessions Judge (Retd.) (Mobile No.9910384655) as the sole arbitrator for adjudication of the disputes which have arisen between the parties.

5. Arbitral proceedings will be held under the aegis of Delhi International Arbitration Centre (DIAC). Fee of the Arbitrator shall be fixed as per fee schedule.

6. Before entering upon reference, the learned Arbitrator will comply with Section 12 of the Act.

7. It is made clear that since this Court has not expressed any opinion on the merits of the rival claims of the parties and it will be open for the parties to file their respective claims/counter claims before the learned Arbitrator which will be considered in accordance with law.

8. A copy of this order be forwarded to the learned Arbitrator for information.

AVNEESH JHINGAN, J

APRIL 2, 2026

Ch