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

+ **ARB.P. 1233/2025 & I.A. 24540/2025**

JAGDISHCHANDRA MANSUKHANI

.....Petitioner

Through: Mr. Abhijat, Sr. Adv. with Mr. Rohin Dubey, Mr. Atul Vinay Singh, Mr. Harshvardhan Gupta & Mr. Satyam Gupta, Advs.

versus

SAMMAAN CAPITAL LIMITED

.....Respondent

Through: Mr. Darpan Wadhwa, Sr. Adv. with Mr. Rishi Agrawala, Mr. Karan Luthra, Ms. Chanan Parwani, Ms. Muskan Sethi & Mr. Amer Vaid, Advs.

CORAM:

HON'BLE MR. JUSTICE AVNEESH JHINGAN

ORDER

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16.04.2026

1. This petition is filed under Section 11 (6) of the Arbitration and Conciliation Act, 1996 (for short 'the Act') for appointment of an arbitrator.
2. The brief facts are that the petitioner availed the financial facility from respondent i.e. Samman Capital Limited (formerly known as Indiabulls Housing Finance Limited). On failure to maintain financial discipline, the proceedings under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act, 2002) were challenged before the Debt Recovery Tribunal (DRT) by the petitioner. During the pendency of the proceedings, a tripartite agreement for sale of the mortgage property to a third party was entered. The grievance now



raised is that the terms of the tripartite agreement have been violated and has a consequential effect on the recovery.

3. Learned senior counsel for the respondent vehemently opposes the petition contending that the matter is sub judice before the DRT and the jurisdiction of this court cannot be invoked under Section 11(6) of the Act. Reliance is placed upon paragraph no.2, 21 and 23 of the reply which are as under:-

“2. The Respondent submits that the present petition deserves to be dismissed in view of the fact that the Petition is not maintainable as (i) There is no arbitration agreement in existence in respect of the disputes raised by the Petitioner in relation to the Mortgaged Property (ii) The present Petition under Section 11 of the Arbitration & Conciliation Act, 1996 ("A&C Act") is being barred by limitation having not been filed within a period of 3 years from the Notice Invoking Arbitration dated 21.06.2018 thereby intentionally abandoning any arbitration proceedings for disputes arising under the Loan Agreement dated 13.05.2011; (iii) the Petitioner has not invoked Arbitration qua all the parties to the Loan Agreement dated 13.05.2011 nor are they parties to the present Petition; (iv) the present Petition suffers from gross and material suppression of facts and the Petitioner is guilty of filing a false Statement of Truth and therefore deserves to be dismissed summarily; and (v) the disputes raised are *ex-facie* non-arbitrable in view of the express bar under the Securitization and Reconstruction of Financial Assets Act, 2002 ("SARFAESI Act"). Once already having elected the remedy under SARFAESI Act, the Petitioner cannot fall back on an arbitration clause. In any case, arbitration proceedings are barred in view of Section 2(3) of the A&CA Act.

21. The Respondent humbly submits that the disputes alleged in the Petition are not arbitrable as civil courts have no jurisdiction to entertain disputes relating to or arising out



of the enforcement of security interests. Exclusive jurisdiction *qua* such disputes vests with the Ld. DRT under the SARFAESI Act. The Respondent submits that the jurisdiction of the Court under Section 11 of A&C Act is both impliedly and expressly barred in view of the statutory mandate of Section 34 of the SARFAESI Act.

23. The Respondent submits that it is evident from the pleadings above that the disputes raised by the Petitioner in the present Petition relate to the steps taken by the Respondent in respect of the enforcement of the Security Interest created by the Petitioner in favour of the Respondent. Furthermore, it is an admitted position that the Respondent issued statutory notices under Sections 13(2) and 13(4) of the SARFAESI Act, taking symbolic possession of the Mortgaged Property on 23.08.2017 and 02.07.2018, respectively. It is also an admitted position that the Petitioner has challenged these notices under Section 17 of the SARFAESI Act before Ld. DRT, Mumbai by filing an application bearing SA No. 476 of 2018. Furthermore, the Petitioner has also filed another application before the Ld. DRT, Mumbai being SA No. 177 of 2025 challenging the sale of Mortgaged Property.”

4. Learned senior counsel for the petitioner on instructions, in view of the pleadings in the reply and without prejudice to right to avail remedies in accordance with law is not pressing this petition with liberty to file fresh at an appropriate stage, if maintainable.

5. In view of the above, the petition is disposed as not pressed with liberty as prayed for.

AVNEESH JHINGAN, J

APRIL 16, 2026

Ch