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

+ **ARB.P. 1870/2024**

PNB HOUSING FINANCE LIMITED

.....Petitioner

Through: Ms. Muskaan Gupta, Mr. Dheeraj
Nair, Ms. Vishrutyi Sahni, Advs.
(through VC)

versus

HAPPY HOMES CORPORATION & ORS.

.....Respondents

Through: Mr. Tanmaya Agarwal, Ms. Aditi
Agarwal and Mr. Udit Bhardwaj,
Advs. (through VC)

CORAM:

HON'BLE MS. JUSTICE MINI PUSHKARNA

ORDER

21.05.2026

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1. The present petition has been filed under Section 11(5), (6) and (8) of the Arbitration and Conciliation Act, 1996 ("Arbitration Act"), seeking appointment of a Sole Arbitrator for adjudication of disputes between the parties, arising out of the Loan Agreements dated 03rd June, 2016, 21st April, 2017 and 29th May, 2018, as well as the Supplementary Loan Agreement dated 19th February, 2021 and the Deed of Guarantee dated 21st April, 2017.
2. This Court notes that the parties were referred to mediation *vide* order dated 31st January, 2025.
3. Today, learned counsel appearing for the petitioner submits that the proposal for settlement as submitted by the respondents has been rejected by the petitioner. She, thus, submits that an Arbitrator be appointed.
4. She submits that the petitioner, i.e., PNB Housing Finance Limited, had extended multiple loan facilities to the respondents, which are



mentioned as under:

- i. Loan Agreement dated 03rd June, 2016 for a loan facility of Rs. 180 Crores for the purpose of construction and development of the residential project called “*Celebrity Greens*” in Surat, Gujarat;
 - ii. Loan Agreement dated 21st April, 2017 for a loan facility of Rs. 220 Crores for multiple projects located in Surat, Gujarat. Further, respondent nos. 2 and 3 executed the Deed of Guarantee dated 21st April, 2017, to act as personal guarantors for the loan facility extended to respondent no. 1;
 - iii. Loan Agreement dated 29th May, 2018, for a loan facility of Rs. 500 Crores for construction of a project called “*Happy Benchmark Textile Hub*” located at Surat, Gujarat.
 - iv. Supplementary Agreement dated 19th February, 2021 for an additional loan facility of Rs. 64.35 Crores.
5. She further submits that the respondents have failed in repayment of the aforementioned loan facilities as per the terms and conditions agreed therein, despite repeated reminders by the petitioner. Upon the loan amount being overdue for more than 90 days, the petitioner classified the account of the respondent no. 1 as a Non-Performing Asset (“NPA”) on 04th October, 2021.
6. Further, a Demand-cum-Default Notice dated 11th September, 2024 was issued by the petitioner to the respondents, seeking repayment of the outstanding amount. However, the respondents *vide* reply dated 20th September, 2024, denied their liabilities and challenged the classification of their account as NPA.
7. Thus, the learned counsel for the petitioner submits that disputes have



arisen between the parties with respect to repayment of the outstanding loan amounts.

8. She submits that there exists an Arbitration Clause, i.e., Clause 10.6 in the aforementioned Loan Agreements, as per which, the disputes between the parties need to be resolved by arbitration.

9. She further submits that a Notice dated 24th September, 2024, invoking the Arbitration Clause was issued to the respondents in terms of Section 21 of the Arbitration Act.

10. This Court notes the Arbitration Clause, i.e., Clause 10.6, as contained in the Loan Agreement dated 03rd June, 2016, which is identical to the Arbitration Clauses contained in the Loan Agreements dated 21st April, 2017 and 29th May, 2018, executed between the parties. Clause 10.6 of the Loan Agreement dated 03rd June, 2016 is reproduced as under:

“xxx xxx xxx

10.6 Arbitration

Any and all disputes, claims, difference arising out of or in connection with this Agreement and the Schedule or the performance of this Agreement shall be settled by arbitration to be referred to a sole arbitrator to be appointed by the PNBHFL and the award thereupon shall be binding upon the Parties to this Agreement. The place of arbitration shall be in Delhi or any other place as arbitrator may decide, in accordance with the provisions of the Arbitration and Conciliation Act, 1996 and any statutory amendments thereof. The proceeding of Arbitration Tribunal shall be conducted in English language. Each party has to bear cost of representing its case before the Arbitrator. Costs and charges of Arbitrator shall be shared equally unless/otherwise provided for in the award.

For the purpose of clause 10.6, the Borrower further agrees that all claims, difference and disputes, arising out of or in relation to dealings/transaction made in pursuant to this Agreement including any question of whether such dealing, transaction have been entered into or not, shall be subject to the exclusive jurisdiction of the courts at Delhi only.

xxx xxx xxx”

I. Perusal of the aforesaid Arbitration Clause clearly shows that there is



a valid Arbitration Agreement between the parties, whereby, the parties have agreed that the disputes shall be settled in accordance to the provisions of the Arbitration Act.

- II. Further, Clause 10.6 stipulates that exclusive jurisdiction has been granted to the Courts at Delhi.
- III. Clause 31 read with Clause 7 of the Supplementary Loan Agreement dated 19th February, 2021, stipulates that terms as contained in the Loan Agreements shall apply *mutatis mutandis* to the said Supplementary Loan Agreement. Thus, the Arbitration Clause, i.e., Clause 10.6 as contained in the said Loan Agreements, would also bind the Supplementary Loan Agreement. Clause 7 and Clause 31 of the Supplementary Loan Agreement read as under:

“xxx xxx xxx

7. Save and except for the terms contained herein, all other terms contained in the Loan Agreement will remain valid and in full force and shall continue to be binding upon the Borrower. For the sake of clarity, capitalized terms used in this Agreement unless otherwise defined herein shall have the meanings assigned to them in the Loan Agreement.

xxx xxx xxx

31. The Parties hereby agree that:

- The capitalized terms used herein shall have the meaning assigned to them under this Supplementary Agreement. The capitalized terms though used here but not defined shall have the meaning ascribed to them under the Loan Agreement.
- Terms contained in the Loan Agreement shall be applicable *mutatis mutandis* to this Supplementary Agreement. Save and except the modifications made hereunder, rest of the terms and conditions contained under the Loan Agreement shall continue to be in force and effect as if they were part of this Supplementary Agreement.
- In case of any inconsistency between the terms of this Supplementary Agreement and any of the other applicable finance documents, the provisions of this Supplementary Agreement shall prevail, unless otherwise agreed in writing by PNBHFL.

xxx xxx xxx”



11. This Court records that the learned counsel appearing for the respondents does not dispute the Arbitration Clause executed between the parties, and confirms the fact that all the respondents are signatories to the aforesaid Loan Agreements, which contain the Arbitration Clause.

12. He further submits that the amount disbursed by the petitioner to the respondents was to the tune of Rs. 639.35 Crores.

13. Upon a pointed query by this Court, learned counsel for the petitioner submits that the petitioner has an approximate claim of Rs. 738 Crores, as on 24th September, 2024.

14. Thus, in view of the existence of a valid Arbitration Agreement between the parties, as well as the disputes that have arisen between the parties, this Court is of the considered opinion that there is no impediment in appointment of an Arbitrator.

15. Accordingly, considering the submissions made before this Court, the following directions are issued:

- I. Justice (Retd.) Sanjiv Khanna, former Chief Justice of India, is appointed as a Sole Arbitrator to adjudicate the disputes between the parties.
- II. The remuneration of the Arbitrator shall be in terms of Schedule IV of the Arbitration Act.
- III. The Arbitrator is requested to furnish a declaration in terms of Section 12 of the Arbitration Act prior to entering into the reference. In the event there is any impediment to the Arbitrator's appointment on that count, the parties are given liberty to file an appropriate application before this Court.
- IV. It shall be open to the respondents to raise counter-claims, if any, in



the arbitration proceedings.

- V. It is made clear that all the rights and contentions of the parties, including, the arbitrability of any of the claims and/or counter-claims, any other preliminary objection, as well as claims/counter-claims on merits of the dispute of either of the parties, are left open for adjudication by the learned Arbitrator.
- VI. The parties shall approach the Arbitrator within two (2) weeks from today.
16. The petition is disposed of in the aforesaid terms.
17. The Registry is directed to send a copy of this order to the learned Arbitrator, for information and compliance.

MINI PUSHKARNA, J

MAY 21, 2026/ak