2026:DHC:7224

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

% ***Date of Decision: 20.08.2026***

\# **CNR No. DLHC010724152025**

\+ **ARB.P. 1571/2025**

AXIS FINANCE LIMITED .....Petitioner

Through: Mr. Raveesh Thukral, Adv. (through v/c)

versus

PRATIK SARKAR & ANR. .....Respondents

Through: Mr. Dibajyoti Mandal, Adv. for R-1 and 2 (through v/c).

CORAM:
HON'BLE MR. JUSTICE SACHIN DATTA

SACHIN DATTA, J (*Oral*)

1. The present petition has been filed by the petitioner under Section 11(6) of the Arbitration and Conciliation Act, 1996 (hereinafter "**the A&C Act**") seeking appointment of a Sole Arbitrator to adjudicate the disputes between the parties, arising out of and in connection with the Personal Loan Agreement dated 25.07.2023 (hereinafter "**the Loan Agreement**") executed between the petitioner and the respondents in relation to loan account no. 0456PLA00122472.

2. The petitioner is a non-banking financial company incorporated under the Companies Act, 1956 and registered with the Reserve Bank of India under the Reserve Bank of India Act, 1934. Respondent no.1 is the borrower and respondent no.2 is the co-borrower in respect of the personal loan facility which forms the subject matter of the present petition.

3. It is stated that respondent no.1 approached the petitioner seeking a

personal loan and that upon scrutiny of the documents submitted and after assessing the creditworthiness of the respondent, the petitioner sanctioned a loan of Rs.25,27,649/- (Rupees Twenty Five Lakhs Twenty Seven Thousand Six Hundred Forty Nine only), carrying interest at the rate of 13.75% per annum, repayable together with the principal amount in 72 equated monthly instalments.

4. Upon the terms of the loan being accepted by the respondents, the parties executed the Loan Agreement on 25.07.2023, which came to be digitally signed by the parties, and loan account no. 0456PLA00122472 came to be assigned. The entire loan amount was disbursed to the respondents on 26.07.2023.

5. It is the case of the petitioner that in March, 2024, the respondents failed to adhere to the terms and conditions of the Loan Agreement, more particularly the repayment obligations thereunder, thereby committing a default. It is further stated that during the period from April, 2024 to September, 2024, the petitioner approached the respondents for regularisation of the loan account; however, the said efforts did not yield any result. As per the statement of account maintained by the petitioner, a sum of Rs.25,36,373/- (Rupees Twenty Five Lakhs Thirty Six Thousand Three Hundred Seventy Three only) is stated to be due and payable by the respondents as on 05.09.2024.

6. The arbitration clause between the parties, contained in clause 14 of the Loan Agreement, is in the following terms:-

> *"14. Arbitration*
>
> *(i) All disputes, differences and/or claim or questions arising*

out of these presents or in any way touching or concerning the same or as to constructions, meaning or effect thereof or as to the right, obligations and liabilities of the parties hereunder shall be referred to and settled by arbitration, to be held in accordance with the provisions of the Arbitration and Conciliation Act, 1996 or any statutory amendments thereof of a sole arbitrator to be nominated by the Lender, and in the event of death, unwillingness, refusal, neglect, inability or incapability of a person so appointed to act as an arbitrator, the Lender may appoint a new arbitrator to be a sole arbitrator. The arbitrator shall not be required to give any reasons for the award and the award of the arbitrator shall be final and binding on all parties concerned. The arbitration proceedings shall be held Mumbai/Delhi.

(ii) Notwithstanding anything to the contrary contained herein, any dispute, controversy or claim arising out of or relating to this contract, including its construction, meaning, scope or validity thereof shall be resolved and settled by arbitration under the Arbitration and Conciliation Act, 1996 (as amended) which may be administered electronically under Online Dispute Resolution (ODR), in accordance with its Dispute Resolution Rules ("Rules").

(iii) The parties consent to carry out the aforesaid proceedings electronically via the email addresses and/or mobile numbers as per Axis Finance records, updated from time to time.

(iv) The parties agree that the aforesaid proceedings shall be carried out by a sole arbitrator appointed under the Rules. The juridical seat of arbitration shall be Delhi/Mumbai, India and the aforesaid proceedings shall be subject to the exclusive jurisdiction of the competent courts in Delhi/Mumbai, India. The language of arbitration shall be English. The law governing the arbitration proceedings shall be Indian law. The decision of the arbitrator shall be final and binding on the parties."

7. Disputes having arisen between the parties, the petitioner issued a notice dated 26.09.2024 under Section 21 of the A&C Act, thereby invoking

the arbitration clause contained in the Loan Agreement, communicating the outstanding dues, and calling upon the respondents to convey their consent to the appointment of a Sole Arbitrator. It is stated that the respondents neither responded to the said notice nor acted in terms thereof.

8. In the aforesaid circumstances, the petitioner approached this court, by way of the present petition, seeking the appointment of a Sole Arbitrator to adjudicate the disputes between the parties.

9. In the present proceedings, notice was issued by the Court to the respondents on 17.10.2025. It is submitted by the learned counsel for the petitioner that a reply has since been filed on behalf of the respondents.

10. The existence of the arbitration agreement between the parties is not in dispute. It is submitted by the learned counsel for the petitioner that while the respondents have, in their reply, conveyed their agreement to the appointment of an arbitrator, they have disputed the stipulation contained in the arbitration clause providing for the arbitral proceedings to be administered under an Online Dispute Resolution platform. It is accordingly proposed on behalf of the petitioner that the arbitration be conducted under the aegis of the Delhi International Arbitration Centre (hereinafter "**DIAC**"); the said proposal is not controverted on behalf of the respondents.

11. The stipulation in an arbitration agreement as to the institution under whose aegis the arbitration is to be conducted, and as to the manner in which the arbitral tribunal is to be constituted, is a matter of contract between the parties, which is always open to them to vary by mutual consent. Where such consent is arrived at in the course of hearing and is recorded in the order of the court, the arbitration agreement stands modified *pro tanto*. In

Shaf Broadcast (P) Ltd. v. Doordarshan, (2019) 10 SCC 447, the Supreme Court, at the request of the counsel for all the parties made at the time of hearing, appointed a Sole Arbitrator in modification of an arbitration clause which stipulated a three-member arbitral tribunal. The modification presently agreed upon is of a narrower compass, inasmuch as it leaves undisturbed the agreed number of arbitrators, the juridical seat and the law governing the arbitral proceedings, and is confined to the forum under whose aegis the arbitration is to be conducted.

12. In view of the above, and having regard to the consensus arrived at between the parties, there is no impediment in appointing an independent Sole Arbitrator to adjudicate the disputes between the parties.

13. With the consent of parties, Ms. Aastha Chawla, Advocate (Mobile No. +91 9910646789) is appointed as the Sole Arbitrator to adjudicate the disputes between the parties.

14. The learned Sole Arbitrator may proceed with the arbitration proceedings subject to furnishing to the parties requisite disclosures as required under section 12 of the A&C Act; and in the event there is any impediment to the appointment on that count, the parties are given liberty to file an appropriate application in this court.

15. It is agreed between the parties that the arbitration shall take place under the aegis of and under the rules of DIAC.

16. All rights and contentions of the parties in relation to the claims/counter-claims are kept open, to be decided by the learned Arbitrator on their merits, in accordance with law.

17. Needless to say, nothing in this order shall be construed as an

expression of this court on the merits of the contentions of the parties.

18. The present petition stands disposed of in the above terms.

SACHIN DATTA, J

AUGUST 20, 2026/cl/sd