(2022) 02 DEL CK 0005

In the Delhi High Court

Case No : Arbitration Petition No. 1253 Of 2021

Seetha Kumari APPELLANT

Vs

Bajaj Finance Limited RESPONDENT

Date of Decision : 02-02-2022

Acts Referred:
Arbitration And Conciliation Act, 1996 — Section 11, 12

Citation : (2022) 02 DEL CK 0005

Hon'ble Judges : Suresh Kumar Kait, J

Bench : Single Bench

Advocate : Ankit Shah, Tanzeela Mubashsharah, Paras Parekh

Final Decision : Disposed Of

Judgement

Suresh Kumar Kait, J

1. The present petition has been filed by the petitioner under Section 11 of the Arbitration and Conciliation Act, 1996 seeking appointment of Arbitrator

for adjudication of disputes with respondent.

2. Petitioner- Seetha Kumar claims to be engaged in a borrower-lender relationship with the respondent since 2015. Petitioner had availed Loan

Against Securities from respondent between 2015 to 2018 which came to be paid off in full. Around September 2018, petitioner further availed loan

against securities for an amount of Rs.10 crores for the period of 24 months. Petitioner was granted additional loan of Rs.10 crore for a period of 24

months vide letter dated 02.05.2019 and Loan cum Pledge cum Guarantee Agreement dated 03.05.2019. Accordingly, the total sanctioned loan was

Rs.20 crores, which was adequately secured by holding securities in form of shares of two listed companies namely, Hinduja Global Solutions Ltd. and

Jindal Poly Film Ltd. with margin of 100% to the satisfaction of the respondent.

3. Learned counsel for petitioner has submitted that margin of 100% was always maintained throughout the tenure of the said loan except on one

occasion for one day, which was triggered due to the heavy crash in Indian and World Stock Markets because of the unprecedent Covid crises in the

month of March, 2020. Even that day i.e. on 25.03.2020, the margin did not trigger or fall below 85% mark. Thereafter, on 25.03.2020, respondent

sent an email to the petitioner at around 10:37 a.m. to replenish the shortfall in the margin within a day and the account of the petitioner stood

overdrawn by Rs.27,15,671/-. Immediately within less than an hour of receiving the abovesaid email, petitioner replenished the shortfall and informed

the respondentâ??s concerned officer.

4. Learned counsel for petitioner further submits that on 26.03.2020, petitioner again received an email from respondent calling upon the petitioner to

execute the sale of the scripts pledged with respondent on 25.03.2020. Again on 27.03.2020, petitioner received another email from respondent calling

upon the petitioner under clause 4 of the agreement to repay entire principal amount of Rs.19,25,58,527/-. Learned counsel submits that despite

repeated representations made to the respondent, the valuable securities of Hinduja Global Solutions Limited were sold by respondent Company at a

throw away price on or about 09/10.07.2020. The market value of those as on date is more than Rs.1200/- and this has caused grave and immense

loss to the petitioner of more than Rs.20 crores.

5. Thereafter, petitioner sent notice dated 15.12.2020 and invoked arbitration under Clause- 8 of the Loan cum Pledge cum Guarantee Agreement

with regard to LIS No.49721. But till date no arbitrator has been appointed by the respondent and hence, the present petition has been filed.

6. Today, learned counsel has entered appearance on behalf of respondent and he submits that the claims raised in the present petition are disputed,

however, fairly conceded that the disputes inter se parties are arbitrable. Learned counsel also submitted that respondent has no objection if disputes

are referred to an independent arbitrator appointed by this Court.

7. Since counsel representing both the sides have consented that the disputes are arbitrable and an independent Arbitrator be appointed by this Court,

the present petition is allowed.

8. Accordingly, Mr. Justice (Retd.) Dipak Misra, former Chief Justice of India (Mobile: 9560333111) is appointed the sole Arbitrator to adjudicate the

dispute between the parties.

9. The learned Arbitrator shall decide the fee after consultation with the parties.

10. The learned Arbitrator shall ensure compliance of Section 12 of Arbitration and Conciliation Act, 1996 before commencing the arbitration.

11. The present petition and pending application, if any, are accordingly disposed of.

