



ARB-95-2022 (O & M)

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**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH**

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ARB-95-2022 (O & M)

Date of decision:21.05.2024

CNH INDUSTRIAL CAPITAL (INDIA) PRIVATE LIMITED

...PETITIONER

VS.

NAGALLA PRASANTHI AND ANR.

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Nagar Singh, Advocate for the petitioner.

None for the respondents.

SUVIR SEHGAL J. (ORAL)

1. By way of present petition filed under Section 11 of the Arbitration and Conciliation Act, 1996, (for short "the Act"), petitioner has approached this Court for appointment of an Arbitrator.

2. Counsel for the petitioner submits that a loan-cum-hypothecation agreement dated 27.11.2018, Annexure P-2, was entered into between the parties and a loan of Rs.19,30,000/- bearing interest @ 9.95% per annum, was extended to the respondents. He submits that as the respondents failed to pay the monthly installments, loan was recalled vide notice dated 19.05.2021, Annexure P-3. He submits that by notice dated 27.12.2021, Annexure P-4, petitioner invoked the arbitration clause and Sh. Ajay Yadav was appointed as a sole Arbitrator. Counsel submits that on an objection raised by the respondents, the learned Arbitrator by order dated 08.02.2022, Annexure P-6, recused from the arbitration proceedings and granted liberty to the petitioner to initiate arbitration afresh. He submits that thereafter the present petition has been filed seeking appointment of an Arbitrator.



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3. Upon notice, respondents have been served. However, there is no representation on their behalf. As such, there is no opposition to the petition.

4. Consequently, petition is allowed. Dr. Shiva Sharma, District & Sessions Judge (Retd.), H. No. 195, Sector 56, (HUDA), Gurugram-122011, Mobile No.9560520062, is appointed as the sole Arbitrator to adjudicate the dispute between the parties, subject to declaration to be made by him under Section 12 of the Act with regard to his independence and impartiality to adjudicate the dispute.

5. Parties are directed to appear before the learned Arbitrator on 31.05.2024 or on any day, time and place to be fixed and communicated by the learned Arbitrator at his convenience.

6. The arbitrator shall be paid fee in accordance with the Fourth Schedule of the Act, as amended.

7. Arbitrator is requested to complete the proceedings as per time limit specified under Section 29-A of the Act.

8. Needless to mention that all the questions arising between the parties in this matter shall remain open for determination in the arbitral proceedings and any observation made hereinabove will not be binding on the learned Arbitrator.

9. Copy of the order be sent to the learned Arbitrator.

10. Pending application(s) are disposed of.

21.05.2024

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**(SUVIR SEHGAL)
JUDGE**

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No