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

% Judgment delivered on: 31st March, 2022

+ ARB.P. 1218/2021

TATA CAPITAL FINANCIAL SERVICES LTD..... Petitioner

versus

ABHIJIT MISHRA

..... Respondent

Advocates who appeared in this case:

For the Appellant: Mr. Roopansh Purohit, Mr. Arvind Jadon and Mr. Harsh Panwar, Advocates (through VC)

For the Respondent: Mr. Abhijit Mishra, Advocate in person.

CORAM:-

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

JUDGMENT

SANJEEV SACHDEVA, J

I.A. 1653/2022 (Exemption)

Allowed, subject to all just exceptions.

I.A. 1651/2022 (interim dir)

1. The applicant/respondent submits that the application has become infructuous.

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2. Accordingly, the application is dismissed as infructuous.

I.A. 1652/2022 (dir)

3. The applicant/respondent seeks leave to withdraw the application.

4. The application is dismissed as withdrawn.

Crl. M.A. 1871/2022 (under Section 340 Cr. P.C)

5. This is an application on behalf of the respondent under Section 340 Cr. P.C read with Section 195 Cr.P.C. It is contended by the respondent/applicant that petitioner have incorrectly claimed the respondent to be a wilful defaulter. He further submits that there is also an alleged illegal submission that there is a demand promissory note executed by the respondent.

6. Further it is contended that the petitioner has incorrectly alleged that there is schedule of repayment whereas there was no schedule of repayment agreed upon. Further it is alleged that certain documents have been manipulated.

7. This is a petition under Section 11(6) of the Arbitration and Conciliation Act, 1996 seeking appointment of an Arbitrator. The contentions raised by the respondent/applicant are all pertaining to the



merits of the matter which are to be adjudicated by the Arbitral Tribunal and are not germane for the Arbitral proceedings.

8. Accordingly, I am of the opinion that it is neither expedient nor in the interest of justice to conduct an inquiry, at this stage, into the allegations levelled in the application.

9. The application is accordingly dismissed.

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10. Learned counsel for the Petitioner and Respondent submit that they had attempted to settle the disputes in mediation, however no formal settlement agreement could be signed.

11. Learned counsel for the petitioner submits that petitioner had even agreed to reduce their claim from Rs. 34 lakhs to Rs. 8 lakhs. However, since the respondent is disputing that there is a settlement. Petitioner reserves their right to make a full claim of their entire dues.

12. Respondent submits that he also has counter claims against the petitioner. He further submits that petitioner has signed a full and final settlement, accordingly, it cannot resile from the settlement amount.

13. Without prejudice to the above, learned counsel for the petitioner as well as the respondent who appears in person submit that



they have no objection to an Arbitrator being appointed to adjudicate the disputes between the parties including the claims and counter claims of the respondent.

14. Accordingly, the Petition is allowed and the disputes are referred to the Delhi International Arbitration Centre (DIAC), which would appoint an arbitrator to arbitrate the disputes. The arbitration shall take place under the aegis of the DIAC in accordance with its rules and regulations.

15. The arbitrator would be entitled to charge fees in accordance with the schedule of fee stipulated by the DIAC.

16. The arbitrator shall also furnish the requisite disclosure under section 12(2) of the Arbitration and Conciliation Act, 1996 within one week of entering reference.

17. Petition is disposed of in the above terms.

MARCH 31, 2022
‘rs’

SANJEEV SACHDEVA, J