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

Date of decision: 19.05.2026

+ O.M.P.(I) (COMM.) 83/2026 & I.A. 5688/2026

L T FINANCE LTD

.....Petitioner

Through: Mr. Nitin Dahiya, Mr. Ravinder
Choudhary and Mr. Muzammil,
Advocates

versus

AMIT KUMAR & ORS.

....Respondents

Through: Mr. Santosh Kumar and Mr.
Pinku Singh, Advocates for R-1

**CORAM:
HON'BLE MR. JUSTICE HARISH VAIDYANATHAN
SHANKAR**

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JUDGEMENT (ORAL)

1. The present Petition under Section 9 of the Arbitration and Conciliation Act, 1996 [“Act”], read with Section 151 of the Civil Procedural Code, 1908, seeks the following reliefs:

“a. Direct the Respondents to deposit a sum of Rs. 2,03,41,003.55/(Rupees Two Crores Three Lakhs Forty One Thousand Three and Fifty Five Paise Only) alongwith interest@ 11.65% p.a. has become due and payable as of 04.02.2026 with further overdue charges from 04.02.2026 with the Petitioner or in this Hon'ble Court to secure the Petitioner's claim And;

b. Appoint Court Receiver, High Court, Delhi be appointed as a Receiver under Order XL Rule 1 of C.P.C. in respect of mortgaged property bearing 28/3, Onda Raja Lane Kolkata, Tangka, Kolkata, West Bengal-700015 with a direction to take Possession of the said Assets without giving notice of their visit to the Respondents and for that purpose, this Hon'ble Court be pleased to direct the



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Concerned Police Station to render Police Assistance for the purpose of taking possession of the said Assets and hand it over to the Petitioner and Petitioner be allowed to sale the same by private treaty the said Assets And;

c. Restrain the Respondents and its respective servants and agents be restrained by an order and injunction of this Hon'ble Court in any manner parting with possession, creating third party rights, alienating and/or encumbering mortgage property bearing 28/3, Onda Raja Lane Kolkata, Tangka, Kolkata, West Bengal - 700015 And;

d. Direct the Respondents to disclose its/their encumbered and unencumbered properties and upon disclosure thereof, the Court Receiver may be appointed on the said property under Order XL Rule 1 of C.P.C. 1908. And;

e. Direct the Respondents to furnish the security of whatsoever nature to the sum of Rs. 2,03,41,003.55/- (Rupees Two Crores Three Lakhs Forty One Thousand Three and Fifty Five Paise Only). And;

f. Direct the respondents to pay for the costs of the present petition jointly or severally And/or;

g. Pass such other or further order(s) and/or direction(s) as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.”

2. After advancing certain submissions, learned counsel appearing on behalf of the parties, on instructions, submit that they are *ad idem* that instead of adjudication of the present Petition on merits, the disputes arising *inter se* the parties be referred to Arbitration in terms of the Loan Against Property Agreement dated 28.02.2018 [“**Agreement**”] governing the disputes *inter se* the parties.

3. Material on record indicates that the Arbitration Clause is set out at Clause 12 of the Agreement. The said Clause read as follows:

“Article 12: ARBITRATION

12.1 Without prejudice to any other rights available to the Lender under any other statute to take action against the Borrower, any dispute or difference or claim that arises between parties or any of them touching or concerning this Agreement or any condition



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herein/therein contained as to the rights, duties or liabilities of parties hereto or any of them either during continuance of the Agreement or after the completion or termination or purported termination hereof shall be referred to Arbitration by a sole Arbitrator appointed by the Lender, according to the provisions of Arbitration & Conciliation Act, 1996 and rules thereunder and any amendment thereto from time to time.

12.2 It is agreed between the parties hereto that nothing contained in Section 17 of Arbitration & Conciliation Act, 1996 shall in any way, effect the right of any of or preclude the parties to/from seek/seeking such interim relief/s in an Court of competent jurisdiction, including interim relief u/s. 9 of the Arbitration & Conciliation Act, 1996, and the rule framed thereunder, if in the opinion of the party seeking relief, such application for interim relief/s is necessary order to protect the rights of the party seeking relief under arbitration;

12.3 The award of the Arbitrator shall be a written award and shall be final, conclusive & binding on all the parties whether on question of law or of fact;

12.4 In the event of death, refusal, negligence, inability, incapability of the persons so appointed to act as the sole Arbitrator, a new arbitrator shall be appointed by the Lender;

12.5 The venue of arbitration shall be Mumbai/New Delhi or such other place as may be determined at the sole discretion of the Lender and courts in Mumbai/New Delhi or such other place shall have exclusive jurisdiction.

12.6 Notwithstanding anything contained hereinabove, in the event of the law being made or amended so as to bring the Lender under the SARFAESI Act, 2002 as amended from time to time or the DRT Act. or any other special legislation to enable the Lender to enforce the security under the Securitization Act or proceed to recover Amount Due from the Borrower under the DRT Act. the arbitration provisions hereinbefore contained shall at the option of the Lender cease to have any effect and if arbitration proceedings are commenced but no Award is made, then at the option of the Lender. such proceedings shall stand terminated and the mandate of the Arbitrator shall come to an end. from the date of the making of the law or the date when amendment becomes effective or the date when the Lender exercises the option of terminating the mandate of Arbitrator the case may be;”



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4. Learned counsel for the parties further submit that they are *ad idem* that the present Petition under Section 9 of the Act be treated as an Application under Section 17 of the Act and be considered by the learned Sole Arbitrator upon entering into the reference. The parties further submit that, pending such consideration, the interim Order dated 09.03.2026 passed in the present proceedings may continue to operate.

5. At this stage, this Court is of the considered view that since the parties have mutually consented to refer the present disputes to Arbitration and are further *ad idem* with respect to the appointment of a Sole Arbitrator, there exists no impediment for this Court to refer the present disputes raised in the present Petition for adjudication by the learned Sole Arbitrator.

6. Consequently, the learned Sole Arbitrator shall treat the present Petition under Section 9 of the Act as an Application under Section 17 of the Act.

7. Further, considering the consensus between the parties and in order to preserve the subject matter of the present disputes pending consideration by the learned Sole Arbitrator, the interim Order dated 09.03.2026, shall continue to remain in operation till the learned Sole Arbitrator considers the Application under Section 17 of the Act and passes appropriate orders thereon.

8. In view of the foregoing, this Court is of the considered opinion, since the parties are *ad idem* in regards to being referred to Arbitration, that the adjudication of disputes must not be unduly delayed, and therefore the statutory requirement of a Legal Notice under Section 21 of the Act for invoking the Arbitration Clause and,



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the subsequent requirement of filing a formal Petition under Section 11 of the Act, for appointment of an Arbitrator are hereby waived of.

9. The material on record reflects that the underlying value of the dispute is stated to be approximately Rs. 2.5 Crores.

10. Accordingly, this Court hereby appoints **Ms. Jhum Jhum Sarkar, Advocate (Mobile No. 9971090884)**, as the Sole Arbitrator and requests him to enter upon the reference and adjudicate the disputes *inter se* the parties.

11. The learned Sole Arbitrator is requested to consider the aforesaid Application under Section 17 of the Act as expeditiously as possible.

12. The learned Sole Arbitrator may proceed with the arbitration proceedings, subject to furnishing to the parties the requisite disclosures as required under Section 12(2) of the Act within one (01) week of entering the reference.

13. The Registry is directed to forward a copy of this Order to the learned Sole Arbitrator through all permissible modes, including electronic mode.

14. The learned Sole Arbitrator shall be entitled to a fee in accordance with the Schedule IV of the Act or as may be agreed between the parties and the learned Arbitrator.

15. All rights and contentions of the parties are kept open, to be decided by the learned Sole Arbitrator on merits, in accordance with law.

16. Needless to state, nothing in this Order shall be construed as an expression of opinion of this Court on the merits of the controversy.

17. Accordingly, the present Petition, along with pending



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Application(s), if any, stands disposed of in the aforesaid terms.

HARISH VAIDYANATHAN SHANKAR, J.
MAY 19, 2026/rk/jk/kv