



2026:DHC:9093



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
CNR No. DLHC010359602026

+ **ARB.P. 1356/2026**

M/S TATA CAPITAL LTD

.....Petitioner

Through: **Mr. Sunil Sehrawat, Advocate.**
versus

SHIVAM CONTRACTOR AND ANR

.....Respondents

Through: **None.**

CORAM:

HON'BLE MR. JUSTICE OM PRAKASH SHUKLA

JUDGMENT(ORAL)

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09.10.2026

1. The present petition is filed under Section 11 of the Arbitration and Conciliation Act, 1996 seeking appointment of an arbitrator for adjudication of the disputes arising out of the loan agreement dated 9.12.2022.

2. As per the Petitioner, the Respondent defaulted in repayment of the loan instalments despite repeated reminders. Accordingly, the loan facility was recalled vide notice dated 28.05.2026. The Petitioner claims that a sum of Rs. 7,64,698/- was outstanding as on 14.07.2026.

3. On the 7.08.2026, notice was issued to the Respondents and the Respondents were asked to file reply to the present petition. However, the same has not been filed.

4. On a perusal of the affidavit of service, it appears that the notice has been duly served on the Respondents. Despite the opportunity so granted, none appears on behalf of the Respondents.

5. In view thereof and considering that despite sufficient service,

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Signing Date: 15.10.2026
11:10:14

Page 1 of 6



2026:DHC:9093



the Respondents have chosen not to participate in the present proceedings, this Court finds no impediment in proceeding to consider the appointment of a Sole Arbitrator.

6. The tracking details placed on record establishes that both the Respondents have been duly served. The proof of service, as is reflected from the tracking details, is annexed to the petition and is reproduced hereinbelow:




Department of Posts
Government of India
 Ministry of Communications



Generated through Indiapost website on: 26/9/2026, 4:56:22 pm

Consignment/MO Tracking Report

Consignment/MO Number: ED231710601IN

Article Number: ED231710601IN	Article Type: SP_INLAND_DOC	Tariff: ₹ 69.41
Booked At: Defence Colony SO South Delhi	Booked On: 18/09/2026, 15:19:18	Destination: Chhata SO Mathura
Origin Pincode: 110024	Delivered On: 21/09/2026, 16:57:25	Destination Pincode: 281401

Event	Date	Time	Office	Remarks
Item Booked	18/09/2026	15:19:18	Defence Colony SO South Delhi	-
Item bagged	18/09/2026	16:20:47	Defence Colony SO South Delhi	-
Item Dispatched	18/09/2026	16:29:08	Defence Colony SO South Delhi	-
Bag Received	19/09/2026	00:14:40	New Delhi NSH	-
Item Received	19/09/2026	01:23:50	New Delhi NSH	-
Item bagged	19/09/2026	03:38:10	New Delhi NSH	-
Item Dispatched	19/09/2026	05:06:38	New Delhi NSH	-
Bag Received for Forwarding	19/09/2026	08:37:34	Delhi AP TMO	-
Item Dispatched	19/09/2026	11:56:04	Delhi AP TMO	-
Bag Received for Forwarding	20/09/2026	09:21:55	NSH Agra TMO	-
Item Dispatched	20/09/2026	09:25:02	NSH Agra TMO	-
Bag Received	20/09/2026	18:26:16	Agra NSH	-
Item Received	20/09/2026	19:00:02	Agra NSH	-

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 Signing Date: 15.10.2026
 11:10:14

Page 2 of 6



2026:DHC:9093



Event	Date	Time	Office	Remarks
Item bagged	20/09/2026	21:22:35	Agra NSH	-
Item Dispatched	20/09/2026	21:49:29	Agra NSH	-
Bag Received for Forwarding	20/09/2026	22:31:26	NSH Agra TMO	-
Item Dispatched	20/09/2026	22:32:04	NSH Agra TMO	-
Bag Received for Forwarding	21/09/2026	01:18:40	MA MATHURA RSTMO	-
Item Dispatched	21/09/2026	01:20:14	MA MATHURA RSTMO	-
Bag Received	21/09/2026	10:56:05	Chhata SO Mathura	-
Item received at Destination	21/09/2026	11:22:14	Chhata SO Mathura	-
Taken out for delivery	21/09/2026	11:45:19	Chhata SO Mathura	-
Item Delivered(Addressee)	21/09/2026	16:57:25	Chhata SO Mathura	Article Delivered to jamuna



Department of Posts
Government of India
Ministry of Communications

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Generated through Indiapost website on: 26/9/2026, 4:54:25 pm

Consignment/MO Tracking Report

Consignment/MO Number: ED231710725IN

Article Number:
ED231710725IN

Article Type:
SP_INLAND_DOC

Tariff:
₹ 69.41

Booked At:
Defence Colony SO South Delhi

Booked On:
18/09/2026, 15:19:18

Destination:
Chhata SO Mathura

Origin Pincode:
110024

Delivered On:
21/09/2026, 16:57:41

Destination Pincode:
281401

Event	Date	Time	Office	Remarks
Item Booked	18/09/2026	15:19:18	Defence Colony SO South Delhi	-
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Page 3 of 6



2026:DHC:9093



Event	Date	Time	Office	Remarks
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Bag Received for Forwarding	20/09/2026	22:31:26	NSH Agra TMO	-
Item Dispatched	20/09/2026	22:32:04	NSH Agra TMO	-
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Item Dispatched	21/09/2026	01:20:14	MA MATHURA RSTMO	-
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Item received at Destination	21/09/2026	11:22:14	Chhata SO Mathura	-
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Item Delivered(Addressee)	21/09/2026	16:57:41	Chhata SO Mathura	Article Delivered to jamuna

7. Clause 13 of the Loan Agreement contains an arbitration clause and the same is reproduced hereinbelow:

13. Arbitration

If any dispute, difference or claim arises between any of the Obligors and the Lender in connection with the Facility or as to the interpretation, validity, implementation or effect of the Facility Documents or as to the rights and liabilities of the parties under these T&Cs or alleged breach of the Facility Documents or anything done or omitted to be done pursuant to the Facility Documents, the same shall be settled by arbitration by a sole arbitration to be appointed as per the procedure below and to be held at such place as agreed by the Parties in Serial No.13(a) of Annexure 1 hereto of the Agreement. The Party invoking the arbitration ("Claimant") shall address a notice to the other Party ("Respondent") suggesting the names of not more than three arbitrators, all of whom shall be either retired judges of the District Court, High Court or the Supreme Court or a lawyer having minimum 10 years' relevant experience.

The Respondent shall either:

- Confirm in writing acceptance of one amongst the proposed names as the sole arbitrator to the Claimant within a period of ten (10) days from the date of notice ("Notice Period"); or*
- Convey objection, if any, in writing to the Claimant, against the proposed names of the sole arbitrator within the said Notice Period.*

However, if the Claimant does not receive any response from the Respondent within the said Notice Period, the Claimant shall be entitled to nominate any one person from amongst the

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Signed By: GUNN ARB.P. 1356/2026
Signing Date: 15.10.2026
11:10:14

Page 4 of 6



2026:DHC:9093



proposed three names as the sole arbitrator and such arbitrator shall be deemed to be appointed by both the Parties. In the event, the Respondent conveys its objection as per (ii) above, then the appointment of the sole arbitrator shall be referred to the Council for National and International Commercial Arbitration (CNICA) and the arbitrator shall be appointed by them from their panel of arbitrators.

The arbitration shall be conducted under the provisions of the Arbitration and Conciliation Act, 1996 together with its amendments, any statutory modifications or re-enactment thereof for the time being in force. The arbitration proceeding shall be conducted in English language. The award of the arbitrator shall be final and binding on all parties concerned. The cost of arbitration shall be borne by the Obligor/s.

8. It is well settled that, while exercising jurisdiction under Section 11 of the Act, the scope of enquiry is confined to examining the *prima facie* existence of an arbitration agreement¹.

9. In the present case, there is no dispute with regard to the existence of a valid arbitration clause between the parties.

10. In the aforesaid circumstances, this Court finds no impediment in appointing a Sole Arbitrator.

11. Accordingly, Mr. Sameer Sharma, Advocate, (Mob. No. 9213857759) is appointed as a learned Sole Arbitrator to adjudicate the disputes arisen between the parties. The learned Sole Arbitrator shall enter upon the reference within three weeks from today.

12. The learned Sole Arbitrator will proceed to the arbitration

¹ **SBI General Insurance Co. Ltd. v. Krish Spinning 2024 SCC OnLine SC 1754**



2026:DHC:9093



proceedings subject to furnishing requisite disclosures as required under Section 12(2) of the Arbitration and Conciliation Act, 1996² within three weeks of entering reference.

13. The arbitration shall be carried under the rules and aegis of Delhi International Arbitration Centre (“DIAC”). The learned Arbitrator shall be entitled to fees as per the Schedule of Fees maintained by the DIAC.

14. It shall be open to the parties to raise all pleas, including objection as to arbitrability and jurisdiction, before the learned Sole Arbitrator who shall decide the same in accordance with law.

15. It is clarified that the observations made herein are only for the purpose of deciding the present petition under Section 11(6) of the Act. The learned Sole Arbitrator shall adjudicate the disputes independently and on their own merits, uninfluenced by any observations contained in the present order.

16. The Registry is directed to send a receipt of this order to Mr. Sameer Sharma, learned Arbitrator through all permissible modes including email.

17. Accordingly, the present petition is disposed of in the above terms.

OM PRAKASH SHUKLA, J

OCTOBER 9, 2026/pa

Signature Not Verified² “Act” hereinafter

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