

Grow Money Capital Private Limited vs Jumbo Finvest India Limited & Ors. on 26 March, 2025

Author: Purushaindra Kumar Kaurav

Bench: Purushaindra Kumar Kaurav

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IN THE HIGH COURT OF DELHI AT NEW DELHI

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ARB.P. 2128/2024

Date of Decision: 2

IN THE MATTER OF:

GROW MONEY CAPITAL PRIVATE LIMITEDPetitioner

Through: Mr. Arvind Jadon, Ms. Pallav
and Ms. Taru Sayena, Advs.

versus

JUMBO FINVEST INDIA LIMITED & ORS.Respondents

Through: Mr. Animesh Khandelwal, Adv for R-
1.

HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

JUDGEMENT

PURUSHAINDRA KUMAR KAURAV, J. (ORAL)

1. Heard learned counsel for the parties.

2. The facts of the case would indicate that the petitioner earlier known as Eclear Leasing & Finance Private Limited is a private limited company duly incorporated and registered under the provisions of the Companies Act, 1956. The petitioner is a Non-Banking Financial Corporation (NBFC), inter alia, engaged in the business of providing various financial services to Corporates /individuals by way of granting including personal loans, working capital loans, Business loans, etc., apart from other portfolios.

3. The name of the petitioner changed from Eclear Leasing & Finance Private Limited to M/s Grow Money Capital Private Limited vide Certificate of Incorporation pursuant to change of name dated 11.03.2022.

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4. As per the case set up by the petitioner, it appears that the respondent no.1 is a borrower and the respondent no.2 and 3 are the guarantors. They jointly approached the petitioner for availing the business loan/ working capital facility.

5. The petitioner on their request appears to have approved and sanctioned a loan amounting to the extent of Rs. 5,00,00,000/- vide sanction letter dated 05.01.2019 as has been placed on record. It is stated that, thereafter, the loan amount was disbursed and loan-cum-guarantee agreement dated 12.01.2019, personal guarantee deed(s) dated 12.01.2019, and deed of Hypothecation dated 12.01.2019 (loan facility documents) were executed between the parties.
6. The petitioner contends that after disbursal of the loan amount as per the agreement, the respondent defaulted in its repayment.
7. As on 12.06.2024, the petitioner claims that there was an outstanding amount of Rs. 2,89,50,050/- together with applicable interest, additional interest and other charges like cost and expenses etc.
8. A legal notice dated 19.06.2024 was sent by the petitioner, invoking Section 21 of the Arbitration and Conciliation Act, 1996 vide letter dated 08.08.2024.
9. Since no response was received from the respondents, therefore, the petitioner has approached this Court by way of the instant petition.
10. Learned counsel for the respondent contends that he has filed the objection. He, however, submits that there does exist a valid loan agreement, inter alia, containing an arbitration clause.
11. The Court has perused the arbitration clause no. 27 of the loan agreement dated 12.01.2019, which reads as under:

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By:PURUSHAINDRA 18:01:47 KUMAR KAURAV "(27) Arbitration All disputes arising between the parties as to the interpretation, operation, or effect of any clause in this Agreement or any other difference arising between the parties, which cannot be mutually resolved, shall be referred to the arbitrator chosen by the parties mutually, in writing. The decision of such an arbitrator shall be binding on the parties. Cost of the arbitration shall be borne by the borrower. The Place of Arbitration shall be Delhi."

12. It is thus seen that the dispute is amenable to be adjudicated by the arbitrator. It is explicitly evident that where there exists an arbitration clause in the event any dispute arises between the parties, there is no impediment in appointing an independent Sole Arbitrator. Reference can be made to the decisions of the Supreme Court in Perkins Eastman Architects DPC v. HSCC (India) Ltd.,¹ TRF Limited v. Energo Engineering Projects Ltd.,² Bharat Broadband Network Limited v. United Telecoms Limited,³ and Interplay between Arbitration Agreements under the Arbitration & Conciliation Act, 1996 & the Indian Stamp Act, 18994.
13. Accordingly, the Court appoints Mr. Apoorv Kurup, Sr. Advocate (Mobile No. 8800332253, email ID- apoorv@akurup.com) as the sole Arbitrator, who shall deal with the dispute.

14. The arbitration would take place under the aegis of the Delhi International Arbitration Centre (DIAC) and would abide by its rules and regulations. The learned Arbitrator shall be entitled to fees as per the Schedule of Fees maintained by the DIAC.

(2020) 20 SCC 760 (2017) 8 SCC 377 2019 SCC OnLine SC 547 In re, 2023 SCC OnLine SC 1666.

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15. The learned arbitrator is also requested to file the requisite disclosure under Section 12 (2) of the Act within a week of entering on reference.

16. The registry is directed to send a receipt of this order to the learned arbitrator through all permissible modes, including through e-mail.

17. All rights and contentions of the parties in relation to the claims/counter-claims are kept open, to be decided by the learned Arbitrator on their merits, in accordance with law.

18. The petition stands disposed of in the aforesaid terms.

PURUSHAINDRA KUMAR KAURAV, J MARCH 26, 2025 aks/dp Digitally Signed By:PRIYA Digitally Signed Signing Date:02.04.2025 By:PURUSHAINDRA 18:01:47 KUMAR KAURAV