

In the High Court of Judicature at Madras

Dated : 30.01.2015

Coram :

The Hon'ble Mr.Sanjay Kishan Kaul, Chief Justice

O.P.No.456 of 2012

M/s.Citicorp Finance India Limited
Rep. by its Manager (Legal),
Mr.V.Balasubramani. ... Petitioner

-vs-

1.M/s.Alandurai Dairys Centre Ltd.,
Rep. by its Managing Director,
Coimbatore.
2.S.G.Jayalakshmi
3.G.Karthikeyan
4.G.Dhanabal ... Respondents

Petition filed under Section 11 (4) of the Arbitration and Conciliation Act, 1996, to appoint a Sole Arbitrator in accordance with Clause 14 of the Loan-cum-hypothecation Agreement No.LN1CFL4391090 dated 02.05.2002 between the Petitioner and the 1st respondent as the borrower and Mr.S.P.Govindaraj, as a Guarantor.

For Petitioner : Mr.S.Vasudevan

For Respondents : Mr.K.Balaji

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O R D E R

The petitioner, a finance company, financed a vehicle loan to the first respondent company. Late Mr. S. P. Govindaraj was the Guarantor of the loan, being the Managing Director. He has since passed away and

respondents 2 to 4 are his legal heirs.

2.The agreement undisputedly contains an arbitration clause. In fact, there was a named Arbitrator, who even proceeded with the arbitration, but subsequently the petitioner amended the claim and the named Arbitrator expressed his disinclination to proceed with the arbitration and another Arbitrator was appointed, who also subsequently resigned. It is, in these circumstances, that the petitioner has come before the Court qua this vehicle loan availed of in May, 2002 and the dispute remained unresolved for 13 years.

3.Learned counsel appearing for the respondents states that he will make an endeavour to resolve the dispute amicably. If that is so, that is the best option and I grant four (4) weeks time for the said purpose.

4.I, however, see no purpose in keeping this petition pending, as it is the case of no return with no reply and really, there can be no decision, in view of the facts stated aforesaid. It is, thus, considered appropriate to appoint an Arbitrator, who will, however, proceed with the arbitration only after the lapse of four (4) weeks time, if no settlement is possible.

5.In view of the aforesaid, I appoint Mr.Amalraj S.Penikilapatti, Advocate, having office at No.27 R, III Floor, Pandu Klix Plaza, New Door No.330, Old Door No.160, Thambi Chetti Street, Chennai 600 001, as the Sole

Arbitrator to enter upon the reference and after issuing notice to the parties and upon hearing them, pass an award as expeditiously as possible, preferably within a period of six months from the date of receipt of the order. The learned Arbitrator is at liberty to fix the remuneration and other incidental expenses, which shall be borne by the parties equally.

6.The original petition is, accordingly, allowed, leaving the parties to bear their own costs.

Sd/. (S.K.K., CJ.)
30.01.2015

//Certified to be a true copy//

Dated this the day of 2015.

R.s/09.03.2015

COURT OFFICER

From 25.09.2008 the Registry is issuing certified copies of the Order/Judgment Decree in this format.

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