In the High Court of Judicature at Madras

Dated : 26.03.2015

Coram :

The Hon'ble Mr.Justice M.M.Sundresh

O.P.No.547 of 2013

P.Thangavelu .. Petitioner

-vs-

1. Reserve Bank of India,
rep.by its Regional Director,
Fort Glacis, Rajaji Salai,
Chennai - 600 001

2. The Director,
Department of Banking Operations &
Development,
Reserve Bank of India,
Central Office, New Delhi

3. Credit Information Bureau (India) Limited,
Hoechest House - VI Floor,
No.193, Backbay Reclamation,
Nariman Point,
Mumbai - 400 021

4. JM-Fin Asset
No.141, Maker Chambers - III,
Nariman Point,
Mumbai - 400 021

5. Axis Bank,
Bombay Dyeing Mills Compound,
Pandurang Budhkar Marg,
Worli, Mumbai - 400 025,

6. HDFC Bank,
New Building, "A" Wing, II Floor,
No.26-A, Narayan Properties,
Chandivali Farm Road,
Off Saki Vihar Road,
Chandivali, Andheri (East),
Mumbai - 400 072.

7. Enron Securities,
   No.18/178, Sant Tukaram Road,
   Mumbai - 400 009,

8. Standard Chartered India Limited (SCIL),
   Customer Care Unit,
   No.19, Rajaji Salai,
   Chennai - 600 001. .. Respondents

Prayer: Petition filed under Section 11 of the Arbitration and Conciliation Act, 1996 praying to appoint an Arbitrator to adjudicate the issue between the petitioner and the respondents 3 to 8 regarding listing of the petitioner as wilful defaulter with the 3rd respondent.

For Petitioner	: Mr.Bharathachakravarthy for M/s.Sai, Bharat & Ilan
For Respondents	: No Appearance for Respondents 1 to 7 Mr.Gurmeet Kour for R& P Partner for R-8.

ORDER

The petitioner made a request for purchase of CIBIL TransUnion Score to the 3rd respondent. It is the case of the petitioner that a fraud has been committed by impersonating him and obtained loans in his name. By the letter dated 2.1.2013, the petitioner was given the Wilful defaulter report.

2. The petitioner by letter dated 8.3.2013 requested the 1st respondent seeking to appoint an arbitrator in terms of Section 18 of the Credit Information Companies (Regulation) Act, 2005. The said provision, which deals with "settlement of dispute" is extracted hereunder:

"**18. Settlement of dispute.** - (1) Notwithstanding anything contained in any law for the time being in force, if any dispute arises amongst, credit information companies, credit institutions, borrowers and clients on matters relating to business of credit information and for which no remedy has been provided under this Act, such disputes shall be settled by conciliation or arbitration as provided in the Arbitration and Conciliation Act, 1996 (26 of 1996), as if the parties to the dispute have consented in writing for determination of such dispute by conciliation or arbitration and provisions of that Act shall apply accordingly.

(2) Where a dispute has been referred to arbitration under sub-section (1), the same shall be settled or decided. -

Provided that the arbitrator may, after recording the reasons therefor, extend the said period up to a maximum period of six months:

Provided further that, in an appropriate case or cases, the Reserve Bank may, if it considers necessary to do so (reasons to be recorded in writing), direct the parties to the dispute to appoint an arbitrator in accordance with the provisions of the Arbitration and Conciliation Act, 1996 (26 of 1996), for settlement of their disputes in accordance with the provisions of that Act.

(3) Save as otherwise provided under this Act, the provisions of the Arbitration and Conciliation Act, 1996 (26 of 1996) shall apply to all arbitration under this Act as if the proceedings for arbitration were referred for settlement or decision under the provisions of the Arbitration and Conciliation Act, 1996."

3. By the letter dated 25.3.2013, the petitioner was informed by

the 1st respondent that it is the 2nd respondent, who is competent to consider his request and the 2nd respondent has already been informed about the same by forwarding the letter of the petitioner dated 8.3.2013. As no action was forthcoming either from the 2nd respondent or the 3rd respondent, the present petition has been filed.

4. Though the petitioner has made a request in and by letter dated 8.3.2013, action has not been taken. A perusal of Section 18 of the Credit Information Companies (Regulation) Act, 2005 would show that it is respondents 1 and 2, who are the appellate authorities to appoint the arbitrator in accordance with law. The said provision merely mentions the names of Reserve Bank of India. Therefore, the 1st respondent cannot abdicate his duty by merely referring the letter of the 2nd respondent. Respondents 1 and 2 will have to take a decision in accordance with Section 18 of the Act on the letter of the petitioner dated 8.3.2013. Accordingly, respondents 1 and 2 are directed to pass appropriate orders on the letter dated 8.3.2013 of the petitioner within a period of eight weeks from the date of receipt of copy of this order.

The original petition is ordered accordingly. No costs.

26.03.2015

M.M.SUNDRESH,J.

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