

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated :31.08.2016

CORAM

THE HONOURABLE MR.JUSTICE **RAJIV SHAKDHER**

O.P.No.989 of 2015
and Application No.8012 of 2015

1. Mrs.J.Shanthi
2. M.Parameshwaran .. Petitioners

.Vs.

1. Sundaram Finance Ltd.,
21, Patullos Road,
Chennai - 600 002 .. Respondent

2. S.Santhanakrishnan .. Sole Arbitrator

* * *

Prayer : Petition filed under Sections 13 & 14 of the Arbitration and Conciliation Act, 1996 praying to remove the second respondent, as arbitrator in Arb.Case No.SK/SF/561/2014.

* * *

For Petitioner : Mr.G.Surya Narayanan

For R1 : Mr.M.S.Sampath

ORDER

1. This is an application whereby, the petitioner seeks removal of respondent No.2, as the Arbitrator. Allegations have been made that respondent No.2 is biased against the petitioner.

2. Mr.Sampath, who appears for the respondent No.1, i.e. Sundaram Finance Ltd., which is the contesting respondent vociferously refutes the allegations of bias.

2.1. It is submitted by the learned counsel that the objections, with regard to bias, were a clear after thought, in view of the fact that, after the proceedings had reached the stage of trial, before the learned arbitrator, the said objection was raised.

2.2. Mr.Sampath has also referred me, to the order dated 19.8.2015, whereby, the learned Arbitrator has, inter alia dealt with the objections, pertaining to the alleged bias taken by the petitioner.

2.3. Mr.Sampath, however, says, that in order to remove the niggling doubt in the mind of the petitioner, and to hasten the conclusion of the proceedings, he would not object to another person, being appointed as an arbitrator in the matter.

2.4. It is the submission of Mr.Sampath that, the proceedings before the new arbitrator would continue from the stage at which it is presently positioned.

3. Counsel for the petitioner is agreeable to such an order being passed.

4. Accordingly, without commenting, in any manner, on the allegations made in the petition, as agreed, Mr.K.Balasubramanian, former Registrar General of this Court, is appointed as an Arbitrator.

4.1. For his efforts, the arbitrator, would be paid a consolidated fee of Rs.80,000/-. In addition, the Arbitrator will also be

paid incidental expenses, albeit, on actual basis. The burden of fee and expenses will be borne equally by the parties herein.

4.2. The learned arbitrator will convene arbitration proceedings at a neutral venue and commence the same from the stage at which they are presently positioned.

5. Mr.Sampath, agree that the learned arbitrator could also consider, apart from the respondent's claim, the counter-claim filed by the petitioner.

5.1. It is ordered accordingly.

6. The parties and their counsels, will appear before the arbitrator on 06.10.2016 at 3.00 P.M.

6.1. In case, for any reason, the aforementioned date is not convenient to the Learned Arbitrator, he will have the liberty to fix

another date, which is proximate to the date given above.

9. The captioned petition and application are, accordingly, disposed of in the aforementioned terms.

31.08.2016

Index : Yes / No
Internet: Yes
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Note to office:

1. Registry will furnish a copy of this order by 07/9/2016
2. Registry will also despatch a copy of the order to the learned arbitrator.

To

1. Sundaram Finance Ltd.,
21, Patullos Road,
Chennai - 600 002

RAJIV SHAKDHER, J.
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