

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 17.12.2019

CORAM

THE HON'BLE MR.JUSTICE M.SUNDAR

O.P.No.720 of 2019
and A.No.6882 of 2019

M/s.Equitas Small Finance Bank Limited
(Formerly known as Equitas Finance Limited)
No.769, Spencer Plaza, 4th Floor
Phase-II, Anna Salai, Chennai - 600 002
Rep. by it is Authorised Signatory
Mr.R.S.Bharath (Emp.No.31681)

.. Petitioner

Vs.

1.Mr.S.Karunakaran

2.K.Jayashree

3.R.Diwakaran

.. Respondents

This Original Petition filed under Section 11 read with Section 14(1)(a) & 15(2) of the Arbitration and Conciliation Act, 1996, praying to terminate the mandate of the arbitration proceedings and substitute an arbitrator in the place of existing arbitrator and pass such further or other orders as this Hon'ble Court may deem fit proper in facts and circumstances a thus render justice.

For Petitioner : Mr.A.Damodaran

For Respondents : Mr.D.Manimaran for R1 & R2
Mr.R.Diwakaran,
Advocate/Sole Arbitrator R3

ORDER

This common order will dispose of the main original petition and the application therein viz., O.P.No.720 of 2019 and A.No.6882 of 2019 therein.

2. All the learned counsel in this petition have arrived at a consensus and therefore, it is not necessary to dilate on facts. Suffice to say that main OP has been filed with a prayer to terminate the mandate of sole Arbitrator and substitute an Arbitrator in his place.

3. At the hearing, learned counsel for petitioner very fairly submitted that all allegations/averments against 3rd respondent are withdrawn. Saying so, learned counsel made a plea that the same may please be eschewed. The endorsement made by learned counsel in the case file reads as follows:

'All the allegations and averments against the 3rd respondent in the original application I withdraw. It may be eschewed.'

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17.12.2019

Counsel for petitioner'

4. The endorsement is reiterated. Recording the endorsement, prayer for substitution of the arbitration is being considered.

5. Both the learned counsel submit that an Arbitrator of this Court choice may please be appointed for conducting arbitration under the aegis of 'The Madras High Court Arbitration Centre' ('MHCAC' for brevity).

6. Before considering that request, it is noticed that learned counsel for respondents 1 and 2 made a request that the arbitration costs i.e., fees as well as incidental expenses may please be directed to be made by petitioner/applicant, as the petitioner/applicant has sought termination of mandate and also owing to what according to the counsel for respondents 1 and 2 is difficulty for respondents 1 and 2 in paying the arbitration costs all over again. Considering the relative financial strength of both parties and considering the trajectory wherein and whereby the petitioner/applicant, which is a private bank has sought termination of mandate, this Court deems it appropriate to accede to the request of respondents 1 and 2. To be noted, the costs regime under 'The Arbitration and Conciliation Act, 1996' ('A and C Act' for brevity) provides for one party to absorb the costs.

7. Mr.Amalaraj S.Penikilapatti, Advocate, having office address at No.27-R, III Floor, Pandu Klix Plaza, Door No.330, Old No.168, Thambu Chetty Street, Chennai - 600 001 [Mobile No.9840202279, Phone: 044-25346075], is appointed as sole Arbitrator i.e., substituted in place of third respondent (who

mandate is terminated by this order) and sole Arbitrator shall conduct arbitration in MHCAC under the aegis of this Court in accordance with A and C Act, more particularly in accordance with the Madras High Court Arbitration Proceedings Rules, 2017 and the Madras High Court Arbitration Centre (MHCAC) (Administrative Cost and Arbitrator's Fees) Rules, 2017. Sole Arbitrator shall enter upon reference and conclude the arbitration proceedings expeditiously.

8. Third respondent submits that he will handover the records of the Arbitral Tribunal to the MHCAC in a sealed cover by close of working hours tomorrow and the Registrar of MHCAC shall handover the sealed cover to the new Arbitrator, who has been appointed vide this order.

9. Instant OP is disposed of on above terms. In the light of this order in the main OP, A.No.6882 of 2019 is closed. There shall be no order as to costs.

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17.12.2019

Index : Yes/No
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Note: Registry is directed to communicate this order to Mr.Amalaraj S.Penikilapatti, Advocate, having office address at No.27-R, III Floor, Pandu Klix Plaza, Door No.330, Old No.168, Thambu Chetty Street, Chennai - 600 001 [Mobile No.9840202279, Phone: 044-25346075] forthwith.

O.P.No.720 of 2019 and A.No.

M.SUNDAR, J.

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and A.No.6882 of 2019

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