

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.08.2020

CORAM :

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

Application Nos.1206 to 1209 of 2020

Arun Krishanlal Agarwal

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Applicant
[in all Applications]

versus

1.M/s. Mahindra and Mahindra
Financial Services Limited,
Gateway Building, Apollo Bunder,
Mumbai - 400 001.
Rep .by its Authorisd signatory
V.Jeevan Ram

2.Supreme Freightway Carriers,
Plot No.2, F-2 First Floor,
Sri Iyappa Nagar, Chennai M Corp,
Tamil Nadu - 600 099.

3.L.Thiyagaiya

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Respondents
[in all Applications]

Prayer in A.No.1206 of 2020: Application filed under Order XIV Rule 8 of Original Side Rules read with Section 14(2) of the Arbitration and Conciliation Act, 1996, to grant an interim stay of further proceedings in the arbitration bearing No.NPA-ARB/5868005/JR_K121/2019, titled as in the matter of Arbitration and Conciliation Act, 2015 and in the matter of dispute between Mahindra and Mahindra Financial Services Ltd., and Supreme Freightways Carriers (Borrowers) and other in respect of Loan Agreement bearing No.5868005 dated 06.12.2018.

Prayer in A.No.1207 of 2020: Application filed under Order XIV Rule 8 of Original Side Rules read with Section 14(2) of the Arbitration and Conciliation Act, 1996, to terminate the mandate of the Arbitrator assumed under Notice of invocation dated 15.07.2019 and substitute an independent arbitrator to adjudicate upon the disputes between the petitioner and the first respondent arising out of the Arbitration Agreement bearing No.NPA-ARB/5868005/JR_K121/2019.

Prayer in A.No.1208 of 2020: Application filed under Order XIV Rule 8 of Original Side Rules read with Section 14(2) of the Arbitration and Conciliation Act, 1996, to terminate the mandate of the Arbitrator assumed under Notice of invocation dated 15.07.2019 and substitute an independent arbitrator to adjudicate upon the disputes between the petitioner and the first respondent arising out of the Arbitration Agreement bearing No.NPA-ARB/5867962/JR_K117/2019.

Prayer in A.No.1209 of 2020: Application filed under Order XIV Rule 8 of Original Side Rules read with Section 14(2) of the Arbitration and Conciliation Act, 1996, to grant an interim stay of further proceedings in the arbitration bearing No.NPA-ARB/5867962/JR_K117/2019, titled as in the matter of Arbitration and Conciliation Act, 2015 and in the matter of dispute between Mahindra and Mahindra Financial Services Ltd., and Supreme Freightways Carriers (Borrowers) and other in respect of Loan Agreement bearing No.5867962 dated 06.12.2018.

For Applicant : M/s.Preethi S.Arasu
[in all Applications]

For Respondents : No Appearance
[in all Applications]

COMMON ORDER

These Applications have been filed to grant an interim stay of further proceedings in the arbitration bearing Nos.NPA-ARB/5868005/JR_K121/2019 and NPA-ARB/5867962/JR_K117/2019, titled as in the matter of Arbitration and Conciliation Act, 2015 and in the matter of dispute between Mahindra and Mahindra Financial Services Ltd., and Supreme Freightways Carriers (Borrowers) and other in respect of Loan Agreement bearing Nos.5868005 and No.5867962 dated 06.12.2018 and also to terminate the mandate of the Arbitrator assumed under Notice of invocation dated 15.07.2019 and substitute an independent arbitrator to adjudicate upon the disputes between the petitioner and the first respondent arising out of the Arbitration Agreement bearing Nos.NPA-ARB/5868005/JR_K121/2019 and NPA-ARB/5867962/JR_K117/2019 respectively.

2. Heard the learned counsel for the applicant through video conferencing.

3. Though several grounds have been raised by the learned

counsel for the applicant, the main ground with regard to the applicant is that the sole arbitrator appointed by the first respondent has not disclosed the facts as mandated in the Act. It is his further contention that since the learned Arbitrator has not decided the issue on merits, issuing of the demand notices also have to be arbitrated. Therefore, a fresh arbitrator has to be appointed.

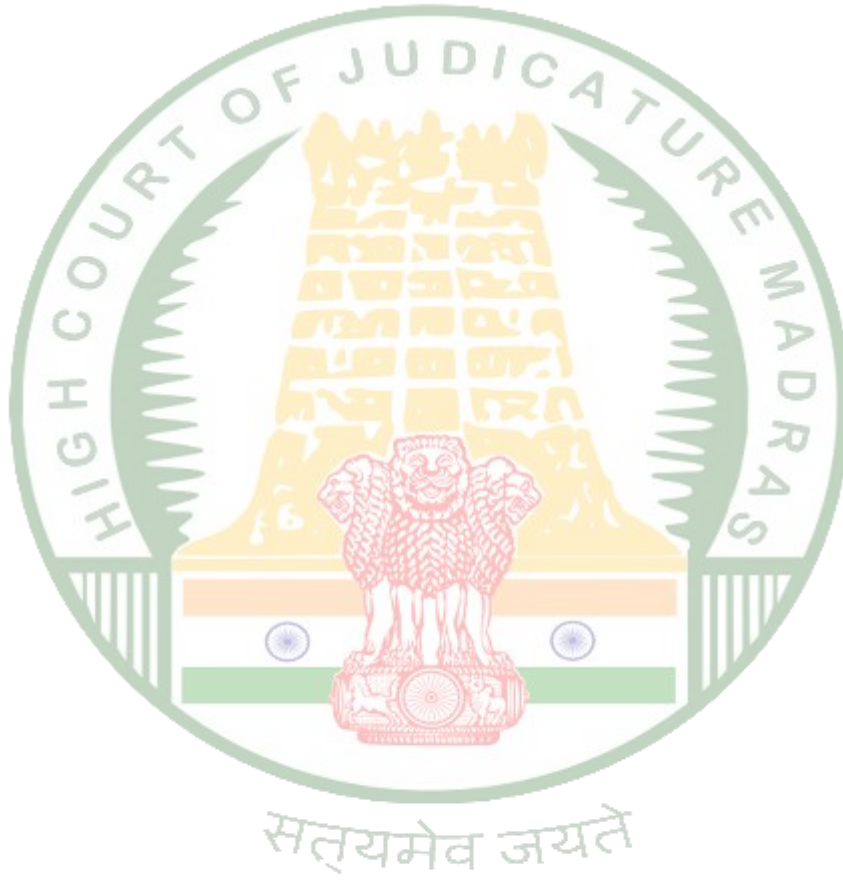
4. Since the dispute had arisen between the parties, the applicant issued notice to the respondents 1 and 2. Despite notice served on the first respondent and the name of the first respondent has been printed in the cause list, none appeared for him.

5. In such view of the matter, the Arbitrator appointed by the first respondent is liable to be terminated and accordingly, the same is terminated and the first respondent shall appoint a fresh Arbitrator, within a period of two(2) months from the date of receipt of a copy of this order. The learned Arbitrator may, after issuing notice to the applicant herein and after giving opportunities to the parties shall decide the issue, within a period of four(4) months thereafter.

6. With these observations, these Applications are closed.

03.08.2020

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N.SATHISH KUMAR, J.

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