

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.08.2020

CORAM

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

O.P. Nos.926 & 927 of 2019

1. A. Dharmaraj
S/o. Arasappan

2. D.Indira,
W/o. A. Dharmaraj

Both are at No.21/2, Navaneethammal
Street, Ayyavoo Colony,
Aminjikarai, Chennai-600 029.

... Petitioners in
both O.P.s

Vs.

1. M/s.Five Star Business Finance Limited,
(Formerly known as Five Star Business
Credits Ltd.,)
Represented by its Authorised Signatory,
No.39, Outer Circular Road,
Kilpauk Garden Colony,
Kilpauk, Chennai-600 010.

2. Mr.S.S.Mariappan, B.Com., B.L.,
Sole Arbitrator,
at No.E1/63, 2nd Floor, Sidco Nagar,
5th Main Road, Nearby Fire Station,
Villivakkam, Chennai-49.

... Respondents in
both O.P.s

PRAYER : Original Petitions filed under Section 14, 15 (2) of the Arbitration and Conciliation Act, 1996 to terminate the mandate of the sole arbitrator and appoint a new arbitrator in the place of the existing arbitrator viz., Mr.S.S.Mariappan, B.Com., B.L., in respect of the arbitration proceedings ARC/FSBFL/082 of 2018 in terms of Section 15(2) of the Arbitration and Conciliation Act, 1996 in respect of loan agreement bearing No.31653 dated 11.07.2013.

For Petitioners in both O.P.s : Mr.M.Baskaran

For Respondents in both O.P.s : Mr.M.Ajmal Azath

ORDER

This application has been filed to terminate the mandate of the sole arbitrator and appoint a new arbitrator in the place of the existing arbitrator viz., Mr.S.S.Mariappan, B.Com., B.L., in respect of the arbitration proceedings ARC/FSBFL/082 of 2018 in terms of Section 15(2) of the Arbitration and Conciliation Act, 1996.

2. The learned counsel appearing for petitioners would submit that this application has been filed mainly on the ground that without notice, the arbitration proceedings has been conducted and further, no document has been furnished to them. The other ground submitted by the learned counsel appearing for the petitioners is that the entire loan account has been cleared

by the petitioners. But, instead of closing the loan account, the respondents have given the credit only for the EMI amounts mentioning the same date. Hence, this application has been filed to terminate the mandate of sole arbitrator and to appoint a new arbitrator.

3. The only grievance of the applicant is that the documents was not served on the petitioners and they were not given proper opportunity to putforth their contentions. So, their grievance is to issue a direction directing the respondents to submit all the copies relied upon by them and also give proper opportunity to the petitioners and the Arbitrator has to decide the issue on the basis of the merits of the case. It is also submitted by the learned counsel appearing for petitioners is that one of the sitting of the arbitration proceedings was conducted in the respondents' office. Hence, the learned Arbitrator has to see that the arbitration is conducted in a fair manner without giving any room for any allegations of bias. Therefore, the learned Arbitrator is directed to complete the proceedings after giving opportunity to the parties and decide the same on merits.

4. With the above observations, these Original Petitions are dismissed.

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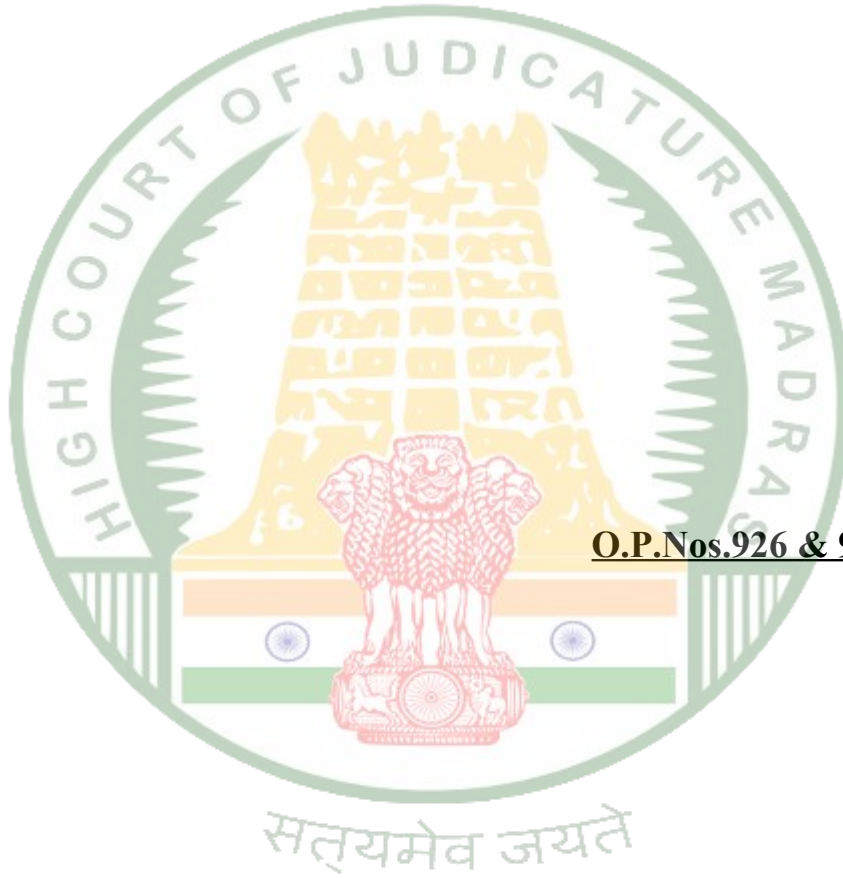
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N. SATHISH KUMAR,J

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