



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

WEDNESDAY, THE 30th DAY OF JUNE 2021

THE HON'BLE MR. JUSTICE N.SATHISH KUMAR

O.P. No.316 of 2021

In the matter of Section 14(1)(a) and
Section 11(6) and 11(8) of the
Arbitration and Conciliation Act, 1996
and

In the matter of disputes between
M/s.Kotak Mahindra Prime Ltd., and
Mr/Ms.Odayappan S and another
arising under the Loan Agreement CF
16487512 dated 20.11.2018

1. Mr/Ms.Odayappan S.,
43, Trmp Street,
Own House Pallathur,
Tirupur-630 106.

2. Mr/Ms.Muthubala D.,
Flat No.SI 406, Dubros Silver Lance,
Amarjothias Nagar, Pandurangan Colony,
Tirupur-641 604.

... Petitioners

-Versus-

1. Kotak Mahindra Prime Ltd.,
rep. by its authorised signatory,
Mr.S.Murugananatham, Deputy Manager,
having office at CEEBROS Centre,
1st Floor, No.45, Montieth Road, Egmore,
Chennai-600 008.

2. Mr.K.Thyagarajan,
Sole Arbitrator,



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Old No.162, New No.344, 2nd Floor,
Thambu Chetty Street, Chennai-600 001.

... Respondents

Original Petition praying that this Hon'ble Court be pleased to terminate the mandate of the 2nd respondent, Mr.K.Thyagarajan, Advocate, the sole arbitrator and consequently appointing an independent and impartial sole arbitrator to adjudicate the disputes between the parties.

This Original Petition coming on this day before this court for hearing in the presence of Mr.O.Solaiappan for M/s. Thriyambak J Kannan, advocates for the petitioners herein and M/s.S.Rajeni Ramadoss, Advocate for the 1st respondent herein, and upon reading the order herein dated 17.06.2021, it is ordered as follows:-

That Mr.Vishnu Mohan, Advocate, residing at No.8, 8th Street, Dr.Radhakrishnan Salai, Mylapore, Chennai – 600 004, Mobile No.9381353434 be and is hereby appointed as a Sole Arbitrator to enter upon reference and adjudicate the matter.

2. That the learned Arbitrator appointed herein, shall after issuing notice to the parties and upon hearing them, pass an award as expeditiously as possible, preferably within a period of six months from the date of receipt of the Order.

3. That the learned Sole Arbitrator appointed herein shall be fix his fees and other incidental charges and the same shall be borne by the parties



equally.

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4. That any interim order already passed by earlier Arbitrator stands vacated.

5. That both parties hereto shall bear their own costs.

WITNESS THE HON'BLE MR. JUSTICE SANJIB BANERJEE,
CHIEF JUSTICE, HIGH COURT AT MADRAS AFORESAID, THIS THE
30th DAY OF JUNE 2021.

Sd/-

ASSISTANT REGISTRAR (O.S.II)

//Certified to be true copy//

Dated at Madras this the day of 2021.

COURT OFFICER(O.S.)

From 25th Day of September 2008 the Registry is issuing certified copies of the Orders/Judgments/Decrees in this format.



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15.07.2021

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O.P. No.316 of 2021

ORDER

DATED: 30.06.2021

THE HON'BLE MR. JUSTICE
N.SATHISH KUMAR

FOR APPROVAL: 20.07.2021

APPROVED ON : 20.07.2021

Copy to:

Mr.Vishnu Mohan,
Advocate,
Sole Arbitrator,
residing at No.8, 8th Street,
Dr.Radhakrishnan Salai, Mylapore,
Chennai – 600 004,
Mobile No.9381353434.



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THE HIGH COURT OF JUDICATURE AT MADRAS

Date 30.06.2021

CORAM:

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

O.P.No.316 of 2021

1. Mr. Odayappan S,
43, Trmp Street, Own House Pallathur,
Tiruppur – 630 106.
2. Ms.Mathubala D,
Flat No.S1 406, Dubros Silver Lance,
Amarjothias Nagar, Pandurangan Colony,
Tirupur – 641 604.

. . . Petitioners

Versus

1. M/s.Kotak Mahindra Prime Ltd.,
Represented by it Authorised signatory,
Mr.S.Muruganantham, Deputy Manager,
Having office at Ceebros Centre,
1st Floor, No.45, Montieth Road, Egmore,
Chennai – 600 008.
2. Mr.K.Tyagarajan,
Sole Arbitrator,
O.d No.162, New No.344, 2nd Floor,
Thambu Chetty Street, Chennai – 600 001.

. . . Respondents

PRAYER : Petition filed under Section 14 (1) (a) and 14 (2) read with sections 11 (6) and Section 11 (8) of Arbitration and Conciliation Act, 1996

to terminate the mandate of the second respondent Mr.K.Thyagarajan,

<https://hcservices.ecourts.gov.in/hcservices/>

Advocate, the sole arbitrator and consequently appoint an independent and



impartial sole arbitrator to adjudicate the disputes between the parties.

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For petitioners : Mr.O.Solaiappan

For respondents : Mr.S.Rajesh Ramadoss – R1

ORDER

This Original Petition has been filed to terminate the mandate of the sole arbitrator and appoint an independent and impartial arbitrator to resolve the dispute arising out of the loan agreement dated 20.11.2018 entered between the petitioners and the first respondent.

2. It is the contention of the petitioner that the sole arbitrator, the second respondent herein has been unilaterally appointed by first respondent and such unilateral appointment is impermissible in law. It is the further contention of the petitioner that in the very first hearing itself and in the absence of the petitioners, the sole arbitrator granted interim Order under Section of 17 of the Arbitration and Conciliation Act in favour of the first respondent to seize the vehicle. The same would clearly indicate partiality of the arbitrator. Hence, it is prayed that a fresh arbitrator may be appointed.

3. By consent of both sides, Mr.Vishnu Mohan, Advocate is appointed as a Sole Arbitrator.



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4. Accordingly, it is ordered as follows:

i) that Mr.Vishnu Mohan, Advocate, residing at No.8, 8th Street, Dr.Radhakrishnan Salai, Mylapore, Chennai – 600 004, Mobile No.9381353434 is appointed as a Sole Arbitrator to enter upon reference and adjudicate the matter.

ii] That the learned Arbitrator appointed herein, shall after issuing notice to the parties and upon hearing them, pass an award as expeditiously as possible, preferably within a period of six months from the date of receipt of the Order.

iii] That the learned Sole Arbitrator appointed herein shall fix his fees and other incidental charges and the same shall be borne by the parties equally.

5. Any interim Order already passed by earlier arbitrator stands vacated.

6. This Original Petition is ordered accordingly, leaving the parties to bear their own costs.

Sd./-N.S.K.J.
30.06.2021

//Certified to be true copy//

Dated at Madras this the day of 2021.

COURT OFFICER(O.S.)

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