



Arb.O.P.(Com.Div)No.161 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 26.10.2021

CORAM:

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

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M/s Shriram City Union Finance Limited,
a Company having its registered office at
No.123, Angappa Naicken Street, Chennai,
rep. by is Authorised Signatory Mrs.E.Ramya ... Petitioner

Vs.

1. Mr.Hemant Nagal, Proprietor,
M/s Nagal Paints and Tile Store,
Old G.T.Road, Sabji Mandi, Hodal,
Palwal, Haryana 121 106.

2. Mrs. Kamalesh nagal,
w/o Mr.Jagan Lal, House No.DC686,
Ward No.3, Kali Murti, Khateek Mohalla, Hohal,
Pawal, Haryana 121 106. ... Respondents

PRAYER : Arbitration Original Petition filed under Section 11(6) of the Arbitration and Conciliation Act, 1996 to appoint Mr.Dr.S.S.P.Darweswh, former Vice Chancellor and Principal District and Sessions Judge, or any fit and competent person as an Arbitrator as per the provisions of the Arbitration and Conciliation Act 1996, so as to adjudicate the claim and the dispute between the petitioner and the



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respondents under the loan cum Hypothecation agreement dated 31.07.2018.

For petitioner : Mr.R.Umashankar
for M/s Sri & Shankar Associates.
For respondents : No appearance

ORDER

This original petition has been filed to appoint an Arbitrator, in pursuant to the Loan cum Hypothecation agreement dated 31.07.2018.

2. The contention of the petitioner is that, as per the above said loan agreement, the first respondent obtained a loan of Rs.15,00,000/- and agreed to pay the same in 60 equal monthly installments. The second respondent stood as guarantor for the due repayment by the first respondent. However, the respondents committed default in paying the installments. As per the agreement, the respondents agreed to resolve the dispute before the Arbitrator. Hence, petitioner nominated Mr.K.V.Prasad, Advocate as an Arbitrator, But, due to personal inconvenience, he recused himself from the Arbitration. Thereafter, the



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petitioner appointed Dr.S.S.P.Darweswh, former Vice Chancellor and Principal District and Sessions Judge, as an Arbitrator. But the second respondent raised objection for such appointment of Arbitrator. Hence, the petitioner prayed for appointment of an Arbitrator.

3. Despite notice served on the respondents; and their names printed in the cause list, none appeared on behalf of the respondents.

4. Admittedly, As per clause 18 of the Loan cum Hypothecation Agreement dated 31.07.2018, the parties are agreed for referring the matter before the Arbitrator, if any dispute arose between them. Further, in this petition, the petitioner suggested to appoint Mr.Dr.S.S.P.Darweswh, Former Vice Chancellor and Principal District and Sessions Judge, as an Arbitrator. Already, the second respondent raised objection for appointment of the above Arbitrator. Therefore, this court is of the view that appointing Arbitrator, as suggested by the petitioner would not be proper. Hence, this court is inclined to appoint Mr.A.Thiyagarajan, District Judge, (Retd.), as Sole Arbitrator. The petitioner has also made consent for appointment such Arbitrator.



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Accordingly, it is ordered as follows.

i) That MR.A.Thiyagarajan, District Judge, (Retd.), No.G2, Rajini Kothanda Graha Apartments, 10th Avenue, Ashok Nagar, Chennai-83, Opposite to Thulasi Medicals, Mobile No.9443080417 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. This Arbitration Original petition is ordered accordingly, leaving the parties to bear their own costs.

26.10.2021

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N. SATHISH KUMAR, J.

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