

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 18.02.2021

Coram

THE HONOURABLE MR. JUSTICE M.SUNDAR

O.P.Nos. 41 and 39 of 2017

Krishnamurthy

.. Petitioner
in both OPs

vs.

1. M/s.Mahindra & Mahindra Financial Services Ltd.,
Having its registered office at Gateway Building
Apollo Bunder, Mumbai – 400 001
with its Corporate Office at Sadhana House
2nd Floor, 570, P.B.Marg
Behind Mahindra Towers
Worli, Mumbai – 400 018

2. Mr.Venkatesh

... Respondents
in both OPs

Prayer in O.P.No.41 of 2017: Petition filed under Section 34 (2)(a) of Arbitration and Conciliation Act, 1996 to set aside the Award of the Arbitrator passed in AP15-NPA-ARB-AS/S-2/BR:136/REF-CB2877/YA1770/AGG No. 206 9879 of 2015 dated 03.02.2016 by allowing this petition.

Prayer in O.P.No.39 of 2017: Petition filed under Section 34 (2)(a) of Arbitration and Conciliation Act, 1996 to set aside the Award of the Arbitrator passed in S.E.14-NPA-ARB-AS/S2/BR:136/GN865/XH383 of 2014 dated 11.12.2015 by allowing this petition.

For Petitioner : Ms.Divya Prapathika
for Mr.Bharath Kumar

For Respondents : Mr.V.Varaheswaran
of M/s.Pass Associates
(Law Firm)

ORDER

This common order will govern both the 'Original Petitions' ('OPs' in plural and 'OP' in singular for the sake of convenience).

2. Read this in conjunction with and in continuation of earlier common proceedings made in captioned OPs in previous listing on 18.01.2021, which runs as follows:

'Ms.Divya Prapathika, learned counsel representing the counsel on record for sole petitioner and Mr.Achudhanandan of M/s.Pass Associates (Law Firm) for the contesting first respondent are before me in this web-hearing on a video-conferencing platform.

2.Captioned OPs were referred to 'Tamil Nadu Mediation and Conciliation Centre under the aegis of this Court' ('TNMCC' for brevity) by predecessor Hon'ble judge on 17.10.2019. TNMCC has sent a mediation report dated 31.01.2020 saying mediation has been completed, but no agreement could be reached.

3. Be that as it may, now the aforementioned two learned

counsel submitted that the sole petitioner has come up with a offer afresh and both learned counsel submit that they are hopeful of a settlement if the matter is referred to TNMCC again. In the light of common request made in unison by both sides, Registry to send this matter to TNMCC. The first sitting before TNMCC (through desired mode) shall be on 27.01.2021. Both aforementioned learned counsel submit that their respective clients would join the meeting without insisting on a separate notice for 27.01.2021 sitting. The sitting shall be at 03.00pm (afternoon). TNMCC is requested to send a report to this Court within three weeks therefrom i.e., by 17.02.2021.

List this matter under the caption 'FOR REPORTING SETTLEMENT' on 18.02.2021.'

3. Pursuant to 18.01.2021 common proceedings, both captioned OPs were referred to 'Tamil Nadu Mediation and Conciliation Centre under the aegis of this Court' ('TNMCC' for brevity).

4. Today, captioned OPs are listed under the cause list caption 'FOR REPORTING SETTLEMENT'.

5. 'O.P.No.41 of 2017' shall be referred to as 'senior OP' and 'O.P.No.39 of 2017' shall be referred to as 'junior OP' for the sake of convenience and clarity.

6. Today, in this web-hearing on a video-conferencing platform Ms.Divya Prapathika, learned counsel representing Mr.R.Bharath

Kumar, counsel on record for sole petitioner in both senior and junior OPs and Mr.V.Varaheswaran of M/s.Pass Associates (Law Firm) on behalf of contesting first respondent in both senior and junior OPs are before me. To be noted, this Court is informed that second respondent one Mr.Venkatesh had been duly served and his name has been shown in the cause list but he has not chosen to come before this Court/enter appearance through counsel. This Court is also informed by both counsel before me that his presence was not necessary for settlement.

7. Be that as it may, pursuant to earlier proceedings made on 18.01.2021 listing, TNMCC has conducted mediation and has sent a mediation report dated 09.02.2021 under cover of a letter dated 10.02.2021 bearing reference Mediation File No.17/21. A perusal of the mediation report brings to light that the matter has been amicably settled between the parties and a settlement agreement has been entered into. To be noted, the settlement agreement duly signed by both sides and their respective counsel has also been enclosed qua the mediation report.

8. The aforementioned mediation report dated 09.02.2021, letter dated 10.02.2021 under a cover of which it has been sent to this Court and the settlement agreement dated 09.02.2021 together with authorisation letter dated 06.02.2021 are as follows:

TAMIL NADU MEDIATION AND CONCILIATION CENTRE (TNMCC)
HIGH COURT, MADRAS

MEDIATION REPORT

Mediation File No. : 17/2024
Court Case No. : O.P.Nos. 41 and 39/2017
Referred by : Hon'ble M.J.J.
Date of Referral : 18.01.2024
Name of the Mediator : S. Srinivasan
Dates of Mediation Sessions : 27.01.2024, 03.02.2024, 10.02.2024, 17.02.21
Name of the Institution : Kishan Prakash
Name of the Institution(s) : Mrs. Srinivasan and Mr. Srinivasan (Plaintiffs)
Cause for Institution(s) : Services Ltd. Mumbai
Cause for Defendant(s) : M/s. A. Srinivasan
Cause for Respondent(s) : M/s. A. Srinivasan

1. Mediation completed. Agreement reached. ☒
or
2. Mediation completed. No agreement was reached. ☐
or
3. Parties were not willing to participate in the mediation. ☐

Dated: 03.02.2024
Signature of the Mediator

HIGH COURT OF JUDICATURE MADRAS

सत्यमेव जयते

WEB COPY

Mediation File No. - 17/33

Reg. No. / Date / 2017
Date: 16/02/2017

From:
T. Rana, B.Com. U.A.
Assistant Registrar,
Tamil Nadu Mediation and Conciliation Center,
High Court, Madras.

To:
The Assistant Registrar (A.S.N.O.W. / 11/11/17) at
High Court, Madras.

Sr. / Madam

Sub: Tamil Nadu Mediation and Conciliation Center, High Court, Madras - Case in reference of 17/33 of 2017
Referred by The High Court in Mediation - Not Settled -
Mediator's Report - Forwaring of Report.

Re: Copy of the Mediator's Report dated 16/02/2017.

Enc. enclosing herewith the Mediator's Report on the above referred case.

The receipt of this letter along with papers may be acknowledged.

Yours faithfully,
[Signature]
ASSTANT REGISTRAR, (MCCI)

सत्यमेव जयते

Encl:
1) Mediation Report
2) Antecedent Zation Letter
3) Letter of Appointment

WEB COPY

From
Krishnamurthy,
S/o, Mayappa,
No. 242, Redwood Post,
1st Cross, Patharima Layout Kodugol,
Bangalore M Corporation,
Karnataka - 560 007

To
The Assistant Registrar,
Tamil Nadu Mediation and Conciliation Centre,
High Court of Madras,
Chennai

Re
Subj: Authorization to appear and represent me before the Mediation Centre,
Chennai in O.P.Nos. 39 & 41 of 2017 - 100
Ref: O.P.Nos. 39 and 41 of 2017 in the file of the Mediation Centre, Chennai

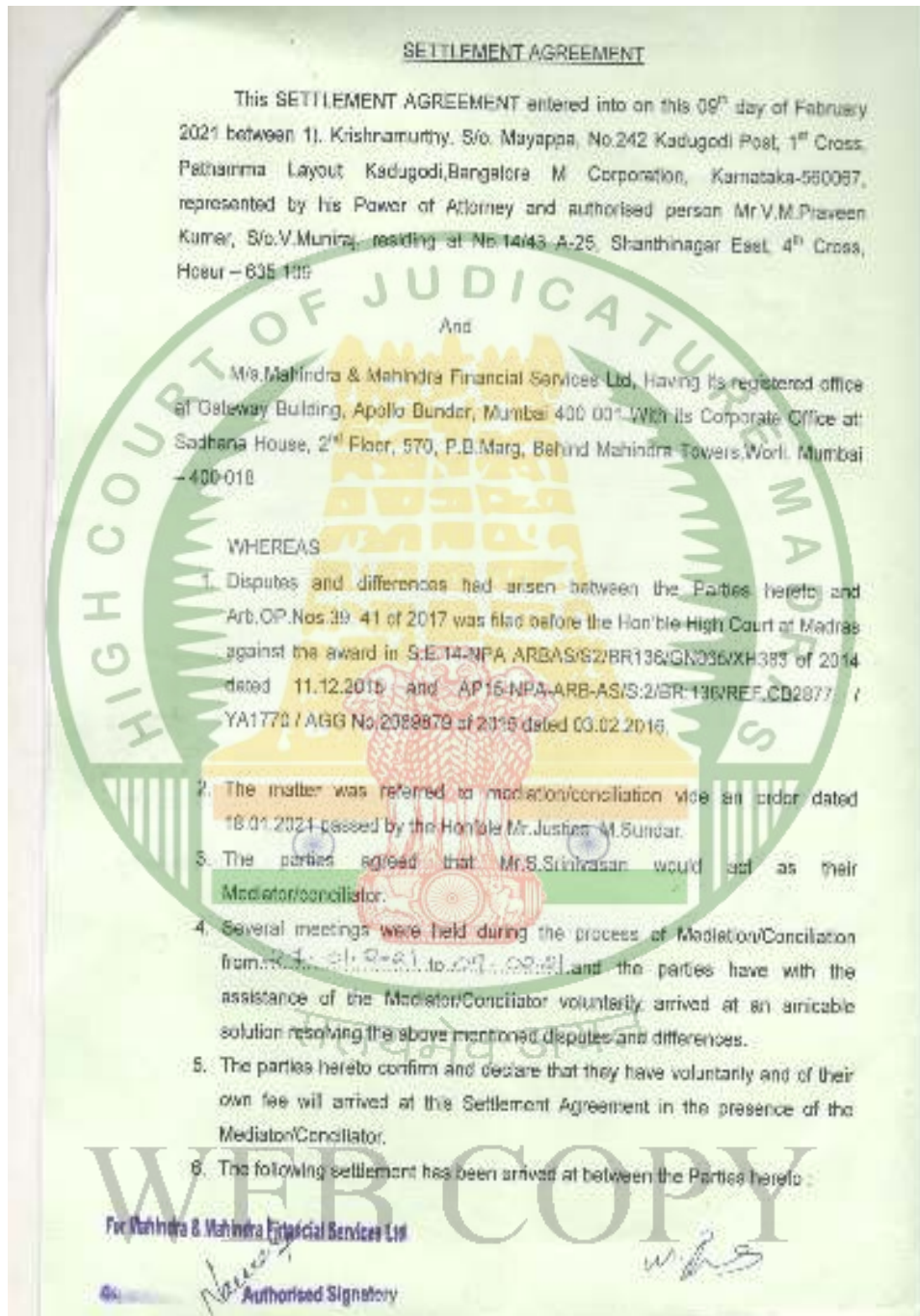
Please refer to the Original petitions filed by me before the Hon'ble High Court of Madras, which was referred to the Mediation by the Hon'ble High Court. As I am aged about 69 years and having residence in Bangalore, Karnataka District and also I am taking treatment for serious illness, I am unable to represent the case before the Mediation Centre, Hence, I am hereby authorizing Mr. Praveen Kumar, Son of V. Murthy, residing at No. 14/6A, A-25, Shanthinagar East 4th Cross, 100th - 530 - 009 to represent on behalf of me in the above referred Petitions. I am enclosing herewith the copy of the Power of Attorney executed by me by appointing the said Mr. Praveen Kumar as my Power Agent to deal with the cases filed by/against me.

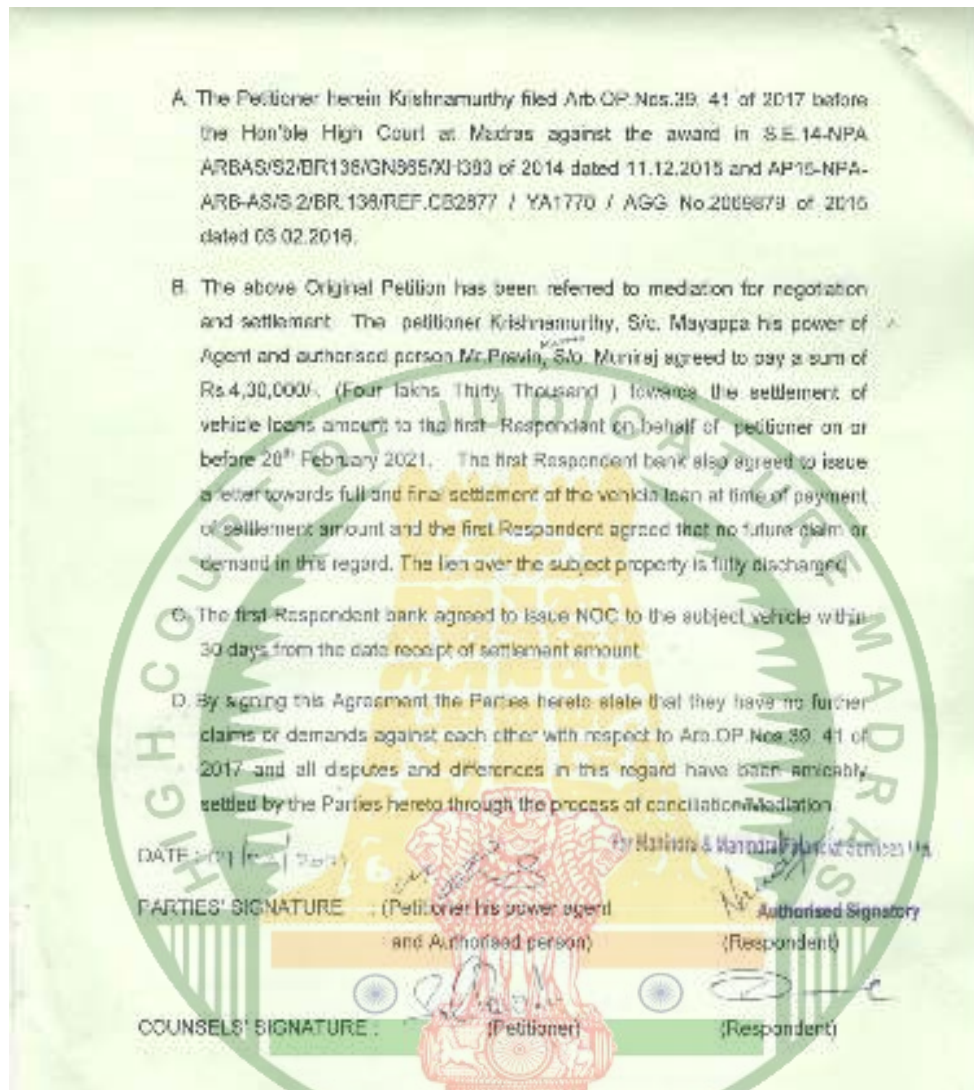
2. My non-appearance is neither willful nor without due to the above said bonafide reasons only. Therefore, it is requested to issue this letter on record and permit Mr. Praveen Kumar, Son of V. Murthy, residing at No. 14/6A, A-25, Shanthinagar East, 4th Cross, 100th - 530 - 009 to appear and represent me before the Mediation Centre for the above referred cases.

सत्यमेव जयते
Yours faithfully
M. Murthy

Place
Date: 05.02.2021

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9. Aforementioned two counsel, who are before me in this virtual hearing today, advertent to the aforementioned settlement agreement submit that both the contesting parties were present before TNMCC (to be noted in case of petitioner it was his Power Agent/Authorized Representative) and they signed the settlement agreement in the presence of each other. Saying so, both learned counsel request that physical presence of the parties for recording the settlement agreement may please

be dispensed with. This request is acceded to. Both learned counsel make a further common request in unison that both captioned OPs i.e., senior and junior OPs may please be disposed of as closed recording settlement agreement and it is their common say that aforementioned settlement agreement dated 09.02.2021 will now govern the parties in place of the impugned awards being award dated dated 03.02.2016 bearing reference AP15-NPA-ARB-AS/S-2/BR:136/REF-CB2877 /YA1770/AGG No. 206 9879 of 2015 and award dated 11.12.2015 bearing reference S.E.14-NPA-ARB-AS/S2/ BR:136 /GN865 /XH383 of 2014.

Both captioned OPs are disposed of as closed in the aforesaid manner. No costs.

18.02.2021

Speaking order: Yes / No

Index: Yes / No

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O.P.Nos.41 and 39 of 2017

M.SUNDAR.J.,

gpa



O.P.Nos. 41 and 39 of 2017

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