Prajakta Vartak

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

ARBITRATION APPLICATION NO.14 OF 2022

SV Tyres ..Applicant
Vs.
IIFL Finance Ltd. & Ors. ..Respondents

Mr. Balaji Iyer with Mr. Ridhi Niyati and Mr. Kunal Naik for Applicant.
Mr. Pradeep Bakhra with Mr. Nikhil Gupta i/b. Wadia Ghandy & Co. for Respondent No.2.
Mr. Anand Pai with Ms. Aditi Phatak i/b. Udwadia & Co. for Respondent No.3.

CORAM : G.S. KULKARNI, J.
DATE : FEBRUARY 16, 2022.

P.C.:

1. This is an application filed under Section 11 of the Arbitration and Conciliation Act, 1996 (for short, "the Act") whereby the applicant has prayed for appointment of an arbitral tribunal for adjudication of the disputes which have arisen between the applicant, respondent no.1 and respondent no.2 as per Section 18 of the Credit Information Companies (Regulation) Act, 2005 (for short, "the 2005 Act"). The applicant has invoked the said provision being aggrieved by the actions of respondent no.2, on the credit information being issued by respondent no.2, in relation to the applicant.

2. The case of the applicant is that the applicant is a borrower of respondent no.1 and therefore falling within the definition of "borrower" as defined in Section 2(b) of the 2005 Act. The concern of the applicant

is also in regard to the "credit information" as defined under Section 2(d) which is in regard to the credit worthiness of the applicant in the capacity of a borrower recognized under clause 2(d)(iv) of the 2005 Act. It is also the case of the applicant that respondent no.2 is a "credit information company" as defined under Section 2(e) of the 2005 Act, who is discharging functions as provided under Section 14 of the 2005 Act. As the applicant fulfilled the requirements under the said provisions in regard to the grievances of the applicant on the information which was issued by respondent no.2, the applicant approached respondent no.3-Reserve Bank of India invoking the provisions of Section 18 of the 2005 Act. Section 18 of the 2005 Act reads thus:-

> "18. Settlement of dispute.—(1) Notwithstanding anything contained in any law for the time being in force, if any dispute arises amongst, credit information companies, credit institutions, borrowers and clients on matters relating to business of credit information and for which no remedy has been provided under this Act, such disputes shall be settled by conciliation or arbitration as provided in the Arbitration and Conciliation Act, 1996 (26 of 1996), as if the parties to the dispute have consented in writing for determination of such dispute by conciliation or arbitration and provisions of that Act shall apply accordingly.
>
> (2) Where a dispute has been referred to arbitration under sub-section (1), the same shall be settled or decided,—
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> (a) by the arbitrator to be appointed by the Reserve Bank;
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> (b) within three months of making a reference by the parties to the dispute:
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> Provided that the arbitrator may, after recording the reasons therefor, extend the said period up to a maximum period of six months:
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> Provided further that, in an appropriate case or cases, the Reserve Bank may, if it considers necessary to do so (reasons to be recorded in writing), direct the parties to the dispute to appoint an arbitrator in accordance with the

> provisions of the Arbitration and Conciliation Act, 1996 (26 of 1996), for settlement of their dispute in accordance with the provisions of that Act.
>
> (3) Save as otherwise provided under this Act, the provisions of the Arbitration and Conciliation Act, 1996 (26 of 1996) shall apply to all arbitration under this Act as if the proceedings for arbitration were referred for settlement or decision under the provisions of the Arbitration and Conciliation Act, 1996."

3. Respondent no.3-Reserve Bank of India by its letter dated 15 September, 2021 informed the advocate for the applicant that as the dispute is not relating to the business of credit information, the applicant's request for appointment of an arbitrator under Section 18 of the 2005 Act cannot be accepted. It is in these circumstances, the present proceedings are filed invoking the provisions under Section 11 of the Act.

4. Respondent no.1 although served, is not represented. An affidavit of service of Mr. Ravindra Koli dated 29 September, 2021 is placed on record.

5. Reply affidavits are filed on behalf of respondent no.2 and respondent no.3-Reserve Bank of India.

6. After the hearing of this application progressed for some time, learned counsel for respondent no.2, on instructions, would submit that his client would not have objection for the disputes being referred to arbitration by the Reserve Bank of India appointing an arbitral tribunal.

Respondent no.2 is thus ready and willing to refer the disputes for arbitration.

7. In my opinion, in the facts and circumstances of the case, respondent no.3-Reserve Bank of India would be under a statutory obligation to appoint an arbitrator, as provided under sub-section (1) of Section 18 of the 2005 Act, as the parties to the disputes have consented for the disputes to be settled by arbitration.

8. In the above circumstances, the application is disposed of by the following order:-

ORDER

i. Respondent no.3-Reserve Bank of India is directed to appoint a sole arbitrator to adjudicate the disputes and differences between the applicant, respondent no.1 and respondent no.2 within a period of two weeks from today.

ii. The learned prospective sole arbitrator, before entering the reference, shall forward a statement of disclosure as per the requirement of Section 11(8) read with Section 12(1) of the Arbitration and Conciliation Act, 1996, to the Prothonotary & Senior Master of this Court, to be placed on record of this application with a copy to be forwarded to both the parties;

iii. The cost of the arbitral proceedings shall be borne by the parties to the arbitral proceedings in equal proportion.

iv. At the first instance, the parties shall appear before the prospective arbitrator within a period of two weeks of the intimation of the appointment being received by the parties from the Reserve Bank of

India on a date which may be mutually fixed by the prospective sole arbitrator;

v. All contentions of the parties are expressly kept open.

vi. The application is disposed of in the above terms. No costs.

[G. S. KULKARNI, J.]