

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

WEDNESDAY, THE 09TH DAY OF MARCH 2022

THE HON'BLE MR. JUSTICE M.SUNDAR

ARB .O.P(COM.DIV.) No.86 of 2022

In the matter of Section 11 of
Arbitration and Conciliation Act
1996 and In the matter of dispute
between Kirankumar Moolchand
Jain and TransUnion CIBIL Ltd.,
and The Cosmos Co-Operative
Bank Limited,

and

(Statutory Arbitration under Section
18 credit Information Companies
(Regulation) Act, 2005)

MR.KIRANKUMAR MOOLCHAND JAIN

S/O. MOOLCHAND,

15, Ragavaiah Road, 3A,

Kenses Flats, 2nd Floor,

T.Nagar, Chennai - 600 017.

..Petitioner

-Vs-

1. TRANSUNION CIBIL LTD.

FORMERLY: CREDIT INFORMATION BUREAU INDIA LTD.,

One Indiabulls Centre,

Tower 2A, 19th Floor, Senapati Bapat Marg,

Elphinstone Road,

Mumbai - 400 013.

2. THE COSMOS CO-OPERATIVE BANK LTD.
REPRESENTED BY ITS AUTHORISED SIGNATORY
GENERAL MANAGER
MR.SANJAY S.SAWANT
Having registered office at 6,
ICS Colony, University Road,
Ganeshkhind,
Shivaji Nagar,
Pune - 411 007.

3. RESERVE BANK OF INDIA,
REP. BY ITS REGIONAL DIRECTOR
Fort Glacis, 16,
Rajaji Salai,
Chennai - 600 001.

..Respondents

Arbitration Original Petition (Commercial Division) praying that this Hon'ble court be pleased to appoint an Independent Arbitrator and direct the reference of the disputes mentioned above between the parties to the said arbitrator to adjudicate upon the same.

This Arbitration Original Petition (Commercial Division) coming on this day before this court for hearing the court made the following order:

Captioned 'Arbitration Original Petition' [hereinafter 'Arb OP' for the sake of convenience and clarity] has been presented on 23.12.2021 under Section 11(6) of 'The Arbitration and Conciliation Act, 1996 (Act No.26 of 1996)' [hereinafter 'A and C Act' for the sake of convenience and

clarity] with a prayer for appointment of an Arbitrator.

2. Mr.K.M.Aasim Shehzad, learned counsel for petitioner submits that the parties to the captioned Arb OP are governed by a Statute which goes by the name 'THE CREDIT INFORMATION COMPANIES (REGULATION) ACT, 2005' [hereinafter 'said Act' for the sake of convenience and clarity]. Learned counsel submits that said Act dated 23.06.2005 kicked in on and from 14.12.2006. Learned counsel also submits that the petitioner is a 'client' within the meaning of Section 2(c)(ii)(C) of said Act, the first respondent is a 'credit information company' within the meaning of Section 2(e) of said Act and the second respondent is a 'credit institution' within the meaning of Section 2(f) of said Act.

3. Learned counsel draws the attention of this Court to Section 18 of said Act which reads as follow:

'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,-

(a) by the arbitrator to be appointed by the Reserve Bank;

(b) within three months of making a reference by the parties to the dispute;

Provided that the arbitrator may, after recording the reasons therefor, extend the said period up to a maximum period of six months;

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.'

4. Adverting to the aforementioned Section 18 of said Act, learned counsel submits that the third respondent should appoint the Arbitrator. It is his further say that disputes erupted *inter alia* regarding the lowering of credit scores of the petitioner who has infused funds in a private

limited company. Therefore, a trigger notice dated 19.07.2021 arraying three respondents as three noticees was issued but the third respondent has responded in and by a notice dated 01.09.2021 bearing reference Chn.Cepc.Adm.No.S.386, saying that the applicant should pursue the matter with Additional Secretary & Central Registrar, Department of Agriculture, Co-operation & Farmers' Welfare, Ministry of Agriculture & Farmers Welfare, Krishi Bhawan, New Delhi.

5. This has necessitated the presentation of the captioned Arb OP in this Court is learned counsel's say. It is also submitted that this Court was approached earlier in and by way of an application under Section 9 of A and C Act being O.A.No.485 of 2021 and the same was disposed of by an order dated 26.08.2021 granting an interim order in favour of the petitioner. Interim order is operating is learned counsel's say. Learned counsel also submits that proceedings have been initiated in 'Debt Recovery Tribunal' ['DRT'] Mumbai against the private limited company in which petitioner has infused funds.

6. Issue notice to respondents returnable in three weeks i.e., returnable by 30.03.2022. Private notice permitted. Notice through all available electronic modes of communications (subject of course to proof

being demonstrated) also permitted.

7. List on 30.03.2022.

Sd/.M.S.J.
09.03.2022

//Certified to be a true copy//

Dated at Madras this the day of 2022.

SU./16.03.2022

COURT OFFICER(O.S.)

From 25.09.2008 the Registry is issuing certified copies of the
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