

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

THURSDAY, THE 10TH DAY OF MARCH 2022

THE HON'BLE MR. JUSTICE M. SUNDAR

O.P.No. 441 of 2021
and
A.No. 2019 of 2021
and
Arb.Appln.No. 35 of 2021

O.P.No. 441 of 2021 :-

In the matter of Arbitration and
Conciliation Act, 1996

and

In the matter of Loan Agreement
No.P009300326 / Volvo FMX - 440
dated 14.02.2020.

1. M/s.Coronation Infrastructure Pvt. Ltd.,
The Mira Corporate Suits,
E01 & 2, Ishwar Nagar, Srinivaspuri,
South Delhi, New Delhi - 110 065.
2. Mr.Ranjit Singh Atwal (M/58 years)
S/o.Sh.Surinder Singh Atwal,
A - 18, Niti Bagh, Andrewsganj,
South Ext - II, Delhi - 110 049,
New Delhi.
3. Mr.Surinder Singh Atwal,
S/o.Late G.S.Atwal,
A - 18, Niti Bagh, Andrewsganj,
South Ext - II, Delhi - 110 049,
New Delhi.

... Petitioners

- Vs -

1. Sundaram Finance Ltd.,
No.21, Patullos Road, Chennai - 600 002
Rep. by Mr.Sri Krishna, Senior Manager (Legal)
2. Mr.K.Balasubramanian (B.A.B.L.),
Retired District Judge and Retired Registrar General, High Court,
No.52/33A, Jeevan Bhima Nagar (LIC Colony),
Anna Nagar West Extension,
Chennai - 600 101.

... Respondents

Original Petition praying that this Hon'ble Court be pleased to pass an order :

(a) Declaring the mandate of the 2nd Respondent as the sole arbitrator is terminated in respect of the arbitration proceedings between the Petitioners and the 1st Respondent arising out of Loan Agreement No.P009300326.

(b) Directing the Respondents to pay the costs of these proceedings.

A.No. 2019 of 2021 :-

In the matter of Arbitration and
Conciliation Act, 1996
and

In the matter of Loan Agreement No :
N009300402 / Bharat Benz - 3128
dated 22.03.2019.

1. M/s.Coronation Infrastructure Pvt. Ltd.,
The Mira Corporate Suits,
E01 & 2, Ishwar Nagar, Srinivaspuri,
South Delhi, New Delhi - 110 065.

2. Mr.Ranjit Singh Atwal (M/58 years)
S/o.Sh.Surinder Singh Atwal,
A - 18, Niti Bagh, Andrewsganj,
South Ext - II, Delhi - 110 049,
New Delhi.

3. Mr.Surinder Singh Atwal,
S/o.Late G.S.Atwal,
A - 18, Niti Bagh, Andrewsganj,
South Ext - II, Delhi - 110 049,
New Delhi.

... Applicants/Petitioners

- Vs -

1. Sundaram Finance Ltd.,
No.21, Patullos Road, Chennai - 600 002
Rep. by Mr.Sri Krishna, Senior Manager (Legal)

2. Mr.K.Balasubramanian (B.A.B.L.),
Retired District Judge and Retired Registrar General, High Court,
No.52/33A, Jeevan Bhima Nagar (LIC Colony),
Anna Nagar West Extension,
Chennai - 600 101.

... Respondents/Respondents

Application praying that this Hon'ble Court be pleased to pass an order to stay all further proceedings now pending before the 2nd Respondent in respect of the arbitration proceedings between the Petitioners and the 1st Respondent arising out of Loan Agreement No.N009300402 / Bharat Benz-3128 dated 22.03.2019.

Arb.Appln.No. 35 of 2021 :-

In the matter of Arbitration and
Conciliation Act, 1996
and

In the matter of Arbitration of dispute
between – M/s. Sundaram Finance
Limited – and – M/s. Coronation
Infrastructure Pvt. Ltd and Others –
Loan Agreement No : N009300402;
dated 22.03.2019.

Sundaram Finance Ltd.,
No.21, Patullos Road, Chennai - 600 002
Rep. by its Assistant General Manager – Legal,
Mr. Aluru Sri Krishna.

... Applicant/1st Respondent

-Vs-

M/s. Coronation Infrastructure Pvt. Ltd.,
The Mira Corporate Suits,
E01 & 2, Ishwar Nagar, Srinivaspuri,
South Delhi,
New Delhi - 110 065.

... Respondent / 1st Petitioner / 1st Applicant

Arbitration Application praying that this Hon'ble Court be pleased to
appoint Mr. Nikhil Vijay Vargia, Branch Manager – Bhlwara, Second Floor,
Govindam, Shop No : 205, Leyland Chouriya, Near Sandeep Hyundai,
Gandhi Nagar, Bhilwara – 311001, as the Receiver to take custody of the
vehicles more fully described in the Schedule to the Judge's Summons,
from the respondent or wherever it is found and deliver it to the applicant
with liberty to sell and to permit the advocate commissioner to obtain Police
aid and to break open the premises within which the said vehicles are lying.

SCHEDULE

(Description of Vehicle)

5 Nos. BHARAT BENZ 3128 COMMERCIAL VEHICLES bearing

Sl.No:	CHASSIS NO:	ENGINE NO:	REGISTRATION NO:
1	MEC4547BBKP081048	400953D0081579	RJ 06 GC 4110
2	MEC4547BAKP079759	400953D0080354	RJ 06 GC 4112
3	MEC4547BBKP081030	400953D0081554	RJ 06 GC 4236
4	MEC4547BBKP081038	400953D0081572	RJ 06 GC 4234
5	MEC4547BBKP081040	400953D0081578	RJ 06 GC 4235

This Original Petition along with these applications coming on this day before this court for hearing in the presence of M/s. Deepika Murali, Advocate for the Petitioners in O.P.No. 441 of 2021 and the applicants in A.No. 2019 of 2021 and the respondent in Arb.Appln.No. 35 of 2021, and Mr.R.Uma Shankar, For M/s. Sri and Sankar Associates (Law Firm) Advocates for the Respondents in O.P.No. 441 of 2021 and A.No. 2019 of 2021 and the applicant in Arb.Appln.No. 35 of 2021, and upon reading the Judges Summons and the affidavit of Mr.Aluru Sri Krishna filed in Arb.Appln.No. 35 of 2021, and the order dated 08/09/2021 made in A.Nos. 2012 to 2019 of 2021 in O.P.Nos. 424, 435 to 441 of 2021, and

It is ordered as follows : -

That the Hon'ble Mr. Justice T. Ravindran (Retd.), residing at New No.27, Old No.12, 3rd Avenue, Indira Nagar, Adyar, Chennai – 600 020 (Mob : 9941350926, 9444399700), a former Judge of this Court is nominated as Sole Arbitrator.

2. That the Hon'ble Arbitrator appointed herein, be and is hereby requested to enter upon reference, adjudicate qua disputes between the borrowers and Sundaram Finance Ltd., by holding sittings in the Madras High Court Arbitration and Conciliation Centre under the aegis of this Court (MHCAC).

3. That Sundaram Finance Ltd./the 1st applicant in O.P.No. 441 of 2021 shall be at liberty to file applications with similar/same prayer/s as in these applications or any other prayer or present the same applications.

4. That if such a course is adopted by Sundaram Finance Ltd., Hon'ble Arbitrator appointed herein, shall consider those application/s as application/s made under Section 17 of A and C Act and deal with the same on their own merits and in accordance with law uninfluenced by any view or opinion expressed in this order.

5. That the arbitral proceedings shall be held in accordance with the Madras High Court Arbitration Proceedings Rules, 2017.

6. That the fees of Hon'ble Arbitrator appointed herein shall be as per Madras High Court Arbitration Centre (MHCAC) (Administrative Cost and Arbitrator's Fees) Rules 2017.

7. That there shall be no order as to costs.

WITNESS THE HON'BLE MR. JUSTICE MUNISHWAR NATH BHANDARI, CHIEF JUSTICE, HIGH COURT AT MADRAS AFORESAID, THIS THE 10TH DAY OF MARCH 2022.

Sd/-

ASSISTANT REGISTRAR (Comm Cases)

//Certified to be true copy//

Dated at Madras this the day of 2022.

COURT OFFICER(O.S.)

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

ED
28.03.2022

O.P.No. 441 of 2021
and
A.No. 2019 of 2021
and
Arb.Appln.No. 35 of 2021

ORDER

DATED : 10.03.2022

THE HON'BLE MR. JUSTICE
M. SUNDAR

FOR APPROVAL : 28.03.2022

APPROVED ON : 30.03.2022

Copy to :

1. The Hon'ble Mr. Justice T.Ravindran,
Judge (Retd.,) High Court of Madras,
Sole Arbitrator,
New No.27, Old No.12, 3rd Avenue,
Indira Nagar, Adyar,
Chennai – 600 020.
(Mob : 9941350926 , 9444399700)
2. The Director,
Tamil Nadu Mediation and Conciliation Centre,
cum - Ex Officio Member,
Madras High Court Arbitration Centre,
Madras High Court,
Chennai – 600 104.

(With Covering Letter)