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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. 424 of 2021

and

A.No. 2012 of 2021

and

Arb.Appln.No. 28 of 2021

O.P.No. 424 of 2021 and

A.No. 2012 of 2021 :-

In the matter of Arbitration and
Conciliation Act, 1996

and

In the matter of Loan Agreement
No.M009300083/ Volvo FMX - 440
dated 30.06.2017

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.



- Vs -

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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

O.P.No. 424 of 2021 :-

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.M009300083.

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

A.No. 2012 of 2021 :-

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.M009300083/Volvo FMX 440 dated 30/06/2017.



Arb.Appln.No. 28 of 2021 :-

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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 : M009300083;
dated 30.06.2017.

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. A.N. Kasinath, Manager – ARC, of the applicant having office
at Plot No-A/108, Second Floor, Banadev Bhawan, Saheed Nagar,
BHUBANESWAR – 751007, Odisha as the Receiver to take custody of the
vehicles morefully 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.



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SCHEDULE

Details of Vehicles

3. Nos. VOLVO CV TIPPERS bearing

Sl.No:	CHASSIS NO:	ENGINE NO:	REGISTRATION NO:
1	923909	495319	JH 09 Y 4412
2	923908	495339	JH 09 Y 5052
3	923907	495325	JH 09 Y 2916

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.424 of 2021 and the applicants in A.No.2012 of 2021 and the respondent in Arb.Appln.No.28 of 2021, and Mr.R.Uma Shankar, For M/s. Sri and Sankar Associates (Law Firm) Advocates for the Respondents in O.P.No.424 of 2021 and A.No.2012 of 2021 and the applicant in Arb.Appln.No.28 of 2021, and upon reading the Judges Summons and the affidavit of Mr.Aluru Sri Krishna filed in Arb.Appln.No.28 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.



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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 respondent in O.P.No. 424 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.



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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.)

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25.03.2022
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O.P.No. 424 of 2021
and
A.No. 2012 of 2021
and
Arb.Appln.No. 28 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.



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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.03.2022

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THE HON'BLE MR. JUSTICE M.SUNDAR

O.P.Nos.424, 435 to 441 of 2021

&

A.Nos.2012 to 2019 of 2021

&

Arb.Appl.Nos.28 to 35 of 2021

Arb.O.P (Com.Div.) No.424 of 2021

1. M/s.Coronation Infrastructure Pvt. Ltd.,
The Mira Corporate Suits
E 01& Ishwar Nagar, Srinivaspuri
South Delhi, New Delhi - 110 065.

2. Mr.Ranjit Singh Atwal

3. Mr.Surinder Singh Atwal

... 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 filed under Section 34 of the Arbitration and Conciliation Act, 1996 to declare 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.M009300093 and to pay the costs of these proceedings.



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For Petitioner : Ms. Deepika Murali

For Respondent : Mr. R. Umashankar
for M/s. Sri and Shankar Associates
(Law Firm)

COMMON ORDER

This common order will dispose of captioned 8 OPs and 16 applications. The captioned matters are listed under the cause list caption 'FOR REPORTING SETTLEMENT'.

2. The three petitioners in the captioned OPs who are borrowers /guarantors, shall be collectively referred to as 'borrowers'. To be noted, the expression 'borrowers' is used only for convenience and it shall not be seen as any expression of opinion on borrowing or the transaction of the petitioners with the first respondent Company. The first respondent in all 8 captioned OPs is a Company and this Court is informed that it is a 'Non-banking Financial Company' ('NBFC' for the sake of brevity), from here on and henceforth for the sake of convenience the first respondent shall be referred to as 'SFL'. The second respondent in the captioned 8 OPs is an individual, a former judicial Officer who has been nominated as sole Arbitrator by SFL.



3. In the hearing today, Ms.Deepika Murali, learned counsel for borrowers and Mr.R.Umashankar of M/s.Sri and Shankar Associates (Law Firm) for SFL are before this Court. The presence of the aforementioned individual who has been nominated as sole Arbitrator by SFL is not necessary for disposal of captioned matters. This is more so owing to a clarificatory observation which shall be made infra in this order.

4. The aforementioned two learned counsel for the two adversaries, namely borrowers and SFL adverting to earlier proceedings made in the captioned matters in the previous listing on 03.03.2022, submit in unison that the settlement talks did not fructify and could not be concluded. To be noted, the settlement talks were qua the arbitrable disputes i.e., primary/main lis. However, owing to the trajectory the hearing has taken today, the captioned 8 OPs and 16 applications can be disposed of. This is owing to a memo filed by learned counsel for SFL i.e., a memo dated 09.03.2022, a scanned reproduction of which is as follows:



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regarding the appointment of an arbitrator by one of the parties to the lis and as the one of the Parties to the arbitration proceeding has challenged the appointment of the arbitrator before this Hon'ble Court, this respondent humbly submits that the present arbitrator appointed by this respondent be substituted and Her Lordship Hon'ble Mrs. Justice P. Vimala may be appointed as an arbitrator to adjudicate all claims and disputes arising out of the loan agreements entered into by the petitioners with this respondent within the time that may be stipulated by this Hon'ble Court.

Therefore this respondent humbly prays that this Hon'ble Court may be pleased to substitute the arbitrator appointed by this respondent (i.e.) the second respondent herein by appointing Her Lordship Hon'ble Mrs. Justice P.Vimala as an arbitrator to adjudicate all disputes/ differences and /or claims between the petitioners and this respondents arising out of the Loan agreements entered into by the petitioners with this respondent and pass such further or other orders that this Hon'ble Court may deem fit and proper in the circumstances of the case and thus render justice.

Dated at Chennai on this 9th day of March 2022


Counsel for first Respondent



5. Learned counsel for borrowers submits that the aforementioned memo necessarily means that SFL is not opposing the prayer for termination of mandate as they agree for appointment of an Arbitrator by this Court at its discretion/choice. However, learned counsel submits that the choice of the sole Arbitrator is left to the discretion of this Court as instructions regarding the name proposed by SFL are not readily available. Therefore, solely as a matter of good order without this being seen as any expression of opinion on the name proposed by SFL, this Court deems it appropriate to appoint a sole Arbitrator.

6. Before doing that, this Court makes it clear that the course adopted in the hearing today and the instant order shall not be seen as expression of any opinion or view on the sole Arbitrator already appointed by SFL (second respondent in the captioned 8 OPs) whose mandate is being terminated. The prayer under Section 14 of A and C Act (though not contents of support affidavit) is being acceded to as it is not opposed and appointment of arbitrator is to facilitate and expedite the arbitral proceedings. Therefore, this order will not be seen as termination of mandate of second respondent in captioned OPs owing to expression of any view or opinion one way or the other.



7. In the light of the narrative thus far, the following common order is

made:

a) 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;

b) Aforementioned Hon'ble Arbitrator is requested to enter upon reference, adjudicate qua disputes between the borrowers and SFL by holding sittings in the Madras High Court Arbitration and Conciliation Centre under the aegis of this Court (MHCAC);

c) It is open to SFL to file applications with similar/same prayer/s as in the captioned 16 applications or any other prayer or present the same applications. If such a course is adopted by SFL, Hon'ble Arbitrator 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;

d) The arbitral proceedings shall be held in accordance with the Madras High Court Arbitration Proceedings Rules, 2017 . The fees of Hon'ble Arbitrator shall be as per Madras High Court



Arbitrator's Fees) Rules 2017.

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All the captioned OPs are disposed of in the aforesaid manner.

There shall be no order as to costs.

Sd./- M.S.J.,
10.03.2022

//Certified to be true copy//

Dated at Madras this the day of 2022.

COURT OFFICER(O.S.)

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