



Arb.O.P (Com.Div.) No.252 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.06.2022

CORAM

THE HON'BLE MR. JUSTICE M.SUNDAR

Arb.O.P (Com.Div.) No.252 of 2022

1. D.Aruna
W/o.M.K.Dass
 2. Prakash M.D.
S/o.M.K.Dass
 3. Sneha M.D
D/o.M.K.Dass
- ... Petitioners

Vs.

1. M/s.Shriram City Union Finance Limited
Having its office at
No.12, Ramaswamy Street, T.Nagar
Chennai-600 017.
Represented by its Authorised Signatory
 2. Dr.S.S.P.Darwesh
Sole Arbitrator
"Thakkars Villa"
No.15/33, Sreenivasa Achari Street
Perambur, Chennai-600 101.
- ... Respondents

Arbitration Original Petition filed under Section 11(6) of the
Arbitration and Conciliation Act, 1996,



(a) Terminate the mandate of the 2nd respondent, the Sole Arbitrator Dr.S.S.P.Darwesh and appoint an independent sole Arbitrator to adjudicate the disputes between the parties with reference to Terms and Conditions of the Loan Agreement dated 07.10.2016;

(b) Direct the respondents to pay costs;

For Petitioners : Ms.S.Anuradha Balaji
For Respondents : Mr.R.Umashankar of
M/s.Sri and Shankar Associates

ORDER

Ms.S.Anuradha Balaji, learned counsel, who is before this Court submits that the captioned 'Arbitration Original Petition' [hereinafter 'Arb OP' for the sake of convenience and clarity] has been filed with a prayer for termination of mandate of second respondent and appointment of an independent sole Arbitrator *inter alia* under Sections 14(2) and 11(6) of 'The Arbitration and Conciliation Act, 1996 (Act No.26 of 1996)', which shall hereinafter be referred to as 'A and C Act' for the sake of brevity and convenience.

2. Learned counsel submits that the captioned Arb OP is predicated on unilateral appointment *inter alia* by interested party argument. What is



of significance is, learned counsel submits at the Bar that post presentation of the captioned Arb OP in this Court, the second respondent proceeded with the arbitration, the petitioners appeared before the Arbitrator through counsel in April 2022 and filed a memo bringing to the notice of Arbitrator presentation of the captioned Arb OP in this Court. Learned counsel submits that the second respondent has very fairly stated that he would await the verdict of this Court and has put the arbitration proceedings on hold.

3. Mr.R.Umashankar, learned counsel of M/s.Sri and Shankar Associates (Law Firm) who is present before this Court was directed by this Court to accept notice on behalf of first respondent. Learned counsel accepted notice.

4. Without expressing any view on the contentions raised, it was suggested by both sides that to put an end to the controversy, it would be desirable to have an Arbitrator from the panel of Madras High Court Arbitration Centre to be appointed as Arbitrator.



5. Considering the quantum of claim and the nature of disputes it would be desirable to have a member of the Bar appointed as Arbitrator is their further common say.

6. Mr.Arun Karthik Mohan, learned Advocate, residing at New No.161/1, Kanakashree Apartments, 1st Floor, V.M.Street, Jagadambal Colony, 2nd Street, Royapettah, Chennai-600 014, Mobile No.8754463801, E-mail Id : mohan.arunkarthik@gmail.com, is appointed as sole Arbitrator. Learned Arbitrator is requested to enter upon reference qua loan agreement dated 07.10.2016, adjudicate arbitrable disputes that have arisen between the parties and render an award by holding sittings in the 'Madras High Court Arbitration Centre under the aegis of this Court' (MHCAC), as per Madras High Court Arbitration Proceedings Rules 2017 and fee of the learned Arbitrator shall be as per Madras High Court Arbitration Centre (MHCAC) (Administrative Cost and Arbitrator's Fees) Rules 2017.

7. Though obvious, it is made clear that this Court is not expressing any view or opinion on the contentions that have been raised. It is also made clear that this order will not have any reflection on the second respondent. Change in Arbitrator is only as a matter of good order owing to captioned



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Arb OP and therefore, this order will not be put against the second respondent in any manner. A copy of this order shall be communicated by the Registry to second respondent. It is also open to both sides to file a memo before the second respondent to bring to his notice this order of this Court.

8. Captioned Arb OP disposed of in the aforesaid manner. There shall be no order as to costs.

22.06.2022

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Index: Yes/no

Speaking/non-speaking

Note: Registry to communicate this order forthwith to:

1. Mr.Arun Karthik Mohan, Advocate,
New No.161/1, Kanakashree Apartments,
1st Floor, V.M.Street, Jagadambal Colony,
2nd Street, Royapettah, Chennai-600 014,
Mobile No.8754463801,
E-mail Id : mohan.arunkarthik@gmail.com
2. The Director
Tamil Nadu Mediation and Conciliation Centre
-cum- Ex Officio Member,
Madras High Court Arbitration Centre
Madras High Court, Chennai – 600 104.

M.SUNDAR.J.,



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