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Arb.O.P (Com.Div.) No.225 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.06.2022

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THE HON'BLE MR. JUSTICE M.SUNDAR

Arb.O.P (Com.Div.) No.225 of 2022

&

A.No.2084 of 2022

Mr.P.Ramamurthy

... Petitioner

Vs.

1. M/s.TVS Credit Services Ltd.,
represented by its Authorized Signatory
Jayalakshmi Estates
No.29, Haddows Road
Chennai – 600 006

2. Mr.V.Parthiban
Sole Arbitrator
No.38, Thiruvalluvar Salai
Kodungaiyur, Chennai – 600 118

... Respondents

Arbitration Original Petition filed under Section 14(2) of the Arbitration and Conciliation Act, 1996 to terminate the mandate of sole arbitrator in loan agreement No.TN30 02UV0000186 dated 15.05.2019 in ACP No.1163/21 in respect of disputes between TVS Credit Services Ltd., and Mr.P.Rammurthy and substitute a sole arbitrator to decide the dispute and to direct the 1st respondent to pay the costs of this petition.

For Petitioner : Mr.V.Jayakumar



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For Respondents : Mr.M.Arunachalam for R1

Mr.S.Sathish
for Mrs.D.Hemavathy for R2

ORDER

This consent order will now dispose of captioned main 'Arbitration Original Petition' ('Arb.OP' for the sake of brevity) and the captioned application thereat.

2. Mr.V.Jayakumar, learned counsel on record for sole petitioner, Mr.M.Arunchalam, learned counsel for first respondent and Mr.Sathish, learned counsel for second respondent are before this Court. To be noted, learned counsel for first respondent submits that he has filed vakalatnama in the Registry yesterday (23.06.2022). Learned counsel for second respondent submits that he will file vakalatnama in the Registry in the course of the day today.

3. For clarity, it is set out that counsel for first respondent is Mr.M.Arunachalam with address for service at, Shri Venkatesh Bhavan, I



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Floor, Old No.35, New No.71, Armenian Street, Chennai – 600 001 and counsel for second respondent is Mr.S.Sathish and his co-counsel with address for service at No.14, 4th Floor, Sunkuram Street, Parrys, Chennai – 600 001.

4. There is no dispute or disagreement that there is a 'loan agreement dated 15.05.2019 bearing reference TN30 02UV0000186' [hereinafter 'primary contract' for the sake of brevity] between the petitioner and first respondent. There is also no dispute or disagreement that there is an arbitration clause in the loan agreement and therefore, there is an arbitration agreement between the petitioner and first respondent being an arbitration agreement within the meaning of Section 2(1)(b) read with Section 7 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.

5. Alleging breach, first respondent triggered the arbitration agreement and appointed the second respondent as sole Arbitrator.



Notwithstanding the averments in the captioned Arb.OP, learned counsel for petitioner, in view of the consent now submits that he would only contend that appointment of Arbitrator is unilateral and without notice to the petitioner. In the hearing today, all the learned counsel agreed to have the captioned Arb.OP to be treated as one under Section 15(1)(b) of A and C Act. This is with the intention of giving a quietus to the matter without causing any inconvenience to any one. It is only as a matter of good order.

6. As this is a consent order and as the second respondent will now be substituted by another arbitrator to be appointed by this order (today), it is not necessary to dilate on the arbitrable disputes or other aspects of the matter. Suffice to say that this order shall not be put against the second respondent as there are no allegations against the second respondent. It is only as a matter of good order as already alluded to supra and this is to be construed as an order not under Section 14(2) but as one with the trappings of an order under Section 15(1)(b) of A and C Act.



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7. It is submitted that other than the filing of claim petition by the first respondent, nothing really has got kick started before the second respondent-Arbitrator. Therefore, arbitrator to be appointed by this Court by this order will commence proceedings afresh. In other words, first respondent shall file claim petition afresh and the entire proceedings will be conducted from the beginning.

8. In the light of the narrative thus far, Mr.M.Muthusamy, Senior Advocate, with address for communication at No.5 (Old No.H-34/A), Parvathi Street, Kalakshetra Colony, Besant Nagar, Chennai - 600 090, Ph:44-2491 7077 and having office at No.277, New Additional Law Chambers, High Court Buildings, Chennai - 600 104 [Mob: 9444042965] is appointed as sole Arbitrator. Learned sole Arbitrator is requested to enter upon reference as regards as arbitrable disputes that have arisen between the petitioner and respondent qua loan agreement dated 15.05.2019 bearing reference TN30 02UV0000186, adjudicate upon arbitrable disputes and make an award by holding sittings in the 'Madras High Court Arbitration Centre under the aegis of this Court' (MHCAC) in accordance with the Madras High Court Arbitration Proceedings Rules 2017 and fee of the



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Hon'ble Arbitrator shall be governed by the Madras High Court Arbitration Centre (MHCAC) (Administrative Cost and Arbitrator's Fees) Rules 2017.

9. Captioned Arb OP disposed of in the aforesaid manner and therefore captioned application thereat i.e., A.No.2084 of 2022 is disposed of as closed. There shall be no order as to costs.

24.06.2022

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Note:

The Registry is directed to communicate this order forthwith to

1. Mr.M.Muthusamy, Senior Advocate,
No.5 (Old No.H-34/A), Parvathi Street,
Kalakshetra Colony,
Besant Nagar,
Chennai - 600 090,
Ph: 44-2491 7077

No. 277, New Additional Law Chambers,
High Court Buildings,
Chennai - 600 104
[Mob: 9444042965]

2. The Director
Tamil Nadu Mediation Conciliation Centre
-cum- Ex-Officio Member
Madras High Court Arbitration Centre
Chennai - 104.

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M.SUNDAR.J.,

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