



Appln.No.3899 of 2021 in O.P.No.591 of 2020

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WEB CO **M.SUNDAR, J.,**

Captioned application has been presented in this Court under Section 15(2) of 'The Arbitration and Conciliation Act, 1996 (Act No.26 of 1996)' [hereinafter 'A and C Act' for the sake of brevity, convenience and clarity].

2. Earlier proceedings made in the previous listings bring to light that the parties on either side submitted that they would explore the possibility of settlement. This is the reason why there were multiple listings of captioned Arb.O.P. under cause list caption 'FOR REPORTING SETTLEMENT'. To be noted, it is listed under the same cause list caption today also.

3. Be that as it may, today Ms.V.Pavithra of M/s.Pass Associates (Law Firm) for applicant and Ms.V.Abinayasri, learned counsel representing Mr.V.Anil Kumar, counsel on record for all the three respondents are before this Court.



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4. Both learned counsel submit that there was some progress in settlement but it could not be concluded.

5. To be noted, Hon'ble predecessor Judge in and by an order dated 18.01.2021 made in O.P.No.591 of 2020 had appointed a learned Member of the Bar of this Court as sole Arbitrator and the said learned Member had withdrawn himself qua the mandate in and by proceedings dated 30.06.2021 and a scanned reproduction of the same is as follows:



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**IN THE ARBITRAL TRIBUNAL OF
MR. THRIYAMBAK J KANNAN**

In the matter of the Arbitration and Conciliation Act, 1996

In the matter of the Loan Agreement for
purchase of products dated 30.09.2017

And

In the matter of disputes between Daimler
Financial Services India Private Ltd., v. Mr.
Kalisetti Venkateswarlu J & 2 ors.

Daimler Financial Services Private Limited,
Rep by its Authorised Representative,
Having its registered office at,
Tek Meadows Campus, 1st Floor, Cair #1,
Block B, No 51, Rajiv Gandhi Salai,
Sholinganallur, OMR, Chennai – 600119.

--- Claimant

-versus-

1. Mr. Kalisetti Venkateswarlu J
No.12 – 118, Ward No.12, Indra Nagar,
Sulurpetta, Nellore, Andhra Pradesh – 524 121
2. Mr Kalisetty Narasamma,
No.12 – 118, Ward No.12, Indra Nagar,
Sulurpetta, Nellore, Andhra Pradesh – 524 121
3. Mr. Venati Vijaya Reddy V.,
No.4/42, Vanamthopu, Sulurpetta,
Nellore, Andhra Pradesh – 524 121

--- Respondents

**MEMORANDUM TOWARDS WITHDRAWAL OF MANDATE ISSUED BY
ARBITRATOR**

1. The Hon'ble Madras High Court in the case of O.P no. 591 of 2020 by way of order dated 18.01.2021 had constituted this Arbitral Tribunal in a petition filed under Section 14 of the Arbitration & Conciliation Act, 1996 by the Respondents herein.
2. On 11.02.2021 this Arbitral Tribunal taking cognisance of the order of the Hon'ble Madras High Court had issued notice to the parties and proposed to hold an arbitral meeting on 18.02.2021. By way of email dated 15.02.2021 the Counsel for Respondents stated that the parties are negotiating an amicable settlement of the issues.



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3. Subsequent to the same this Arbitral Tribunal had issued an email dated 08.03.2021 setting out that in case there was no update on settlement negotiation a hearing may be scheduled. A further email dated 09.03.2021 was issued granting one week's time for settlement failing which a hearing would have to be scheduled.
4. It is stated that having not heard from the parties regarding settlement, this Arbitral Tribunal on 18.03.2021 had issued an email proposing a virtual hearing on 19.03.2021. In response the Counsel for Claimant had sent an email dated 18.03.2021 stating that he had spoken to the Counsel for Respondents who informed him that the Respondents wished to speak to the Claimant for the purpose of attempting settlement.
5. It is stated that till date the Arbitral Tribunal has not been apprised of the status of settlement. An email dated 25.06.2021 was also issued by this Arbitral Tribunal to the counsels requesting for an update on the negotiations.
6. This Arbitral Tribunal is therefore now constrained to issue this memorandum withdrawing its mandate with immediate effect.

Dated at Chennai this the 30th day of June 2021


Arbitrator

6. Mr.Thriyambak J.Kannan, learned Member of the Bar who was appointed as sole Arbitrator, was sent for by this Court and he is present in Court. To be noted, learned counsel was present in this Court in the forenoon session for some other matter. This Court requested Mr.Thriyambak J.Kannan, learned counsel to express his willingness to continue as an Arbitrator if the mandate is resuscitated by this Court in



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the captioned application. Learned counsel submitted that the only reason which impelled him to make aforementioned proceedings dated 30.06.2021 was that he did not hear from learned counsel on both sides. This is not a case of *de jure* or *de facto* incapacity to act as Arbitrator. Therefore, there is no impediment in resuscitating the mandate of sole Arbitrator.

7. To this, aforementioned learned counsel on both sides submit that they would go before learned Arbitrator and conclude the proceedings one way or the other. In saying 'one way or the other', it is meant that it is either by embarking upon the usual procedure of adjudication / by adopting normal arbitral procedure or fast tracking under Section 29B of A and C Act or by settling the matter by resorting to Section 30 of A and C Act.

8. The above draws the curtains on the captioned matter. This Court places on record its appreciation to Mr.Thriyambak J.Kannan, Advocate, for having agreed to continue the arbitral proceedings and conclude the same. Both aforementioned learned counsel also submit that they will extend all co-operation to learned Arbitrator for concluding



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the proceedings one way or the other by resorting to one of the
aforementioned procedures.

9. Though obvious it is made clear that the learned Arbitrator shall hold sittings at 'Madras High Court Arbitration Centre under the aegis of this Court' ['MHCAC'], in accordance with the Madras High Court Arbitration Proceedings Rules, 2017 and learned Arbitrator's fee shall be as per Madras High Court Arbitration Centre (MHCAC) (Administrative Cost and Arbitrator's Fees), Rules 2017.

10. Captioned application disposed of in aforesaid manner. There shall be no order as to costs.

13.07.2022

Note: Registry is directed to communicate a copy of this order forthwith to:

1. Mr. Thriyambak J. Kannan, Advocate
First Floor, 119, Dr. Radhakrishnan Salai
Mylapore, Chennai – 600 004.
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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M.SUNDAR.J.,

ds

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