

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

WEDNESDAY, THE 23RD DAY OF MARCH 2022

THE HON'BLE MR. JUSTICE M.SUNDAR

Arb.Appln. No.236 of 2021

In the matter of Arbitration and
Conciliation Act 1996

and

In the matter of Loan cum
Hypothecation Agreement and
dispute between M/s. TVS Credit
Services Ltd., and Ganesh Maraiyur
Ramadoss Loan No.
TN3008CA0001175 Dated on
24.03.2021

TVS Credit Services Ltd,
No 29, Third Floor, Jayalakshmi Estates,
Haddows Rd, Nungambakkam,
Chennai, Tamil Nadu 600 006
Represented by its Assistant Manager Legal,
Mrs. Shanthi G.K

...Applicant

versus

Ganesh Maraiyur Ramadoss,
S/o. Ramadoss,
51/38A3, 2nd Street, Deekshadar Thottam,
Thanjavur, Kumbakonam,
Krishnarayar Agraharam B.O.Near Church,
Thanjavur - 612 001.

...Respondent

Arbitration Application praying that this Hon'ble Court be pleased to direct the respondent to furnish security to the extent of Rs. 1502984/- failing which order attachment of the property mentioned in the schedule to the Judges Summons through the District court at Thanjavur.

This Arbitration Application coming on this day before this court for hearing in the presence of Mr. M.Arunachalam, advocate for the applicant herein and Mr. Sai Suraj, advocate for the respondent herein and upon reading the judge's summons and the affidavit of Shanthi G.K. filed herein, and the learned counsel for the applicant on instructions submits that 'Arbitral Tribunal' has since been constituted and that the sittings of AT are also underway and also request for refund of court fee paid in captioned application, **it is ordered as follows:-**

That the Captioned Application No.236 of 2021, shall be relegated/referred to Arbitral Tribunal.

2) That the applicant herein, shall be at liberty to file an application with similar/same prayer before arbitral Tribunal or present the captioned application before Arbitral Tribunal with a request to treat the same as one under Section 17 of 'The Arbitration and Conciliation Act, 1996 (Act No. 26 of 1996)'.

3) That if the applicant chooses the above trajectory, Arbitral

Tribunal shall consider the captioned application on its own merits and in accordance with law uninfluenced by this order.

4) That this court has not expressed any view or opinion on the merits of the matter in this order.

5) That a certificate under section 69-A of Tamil Nadu Court Fees and Suits valuation Act, 1955, do issue herein and out of under the seal of this Court in favour of TVS Credit Services Ltd., Rep. by its Assistant Manager Legal, Mrs. Shanthi G.K. the applicant herein, authorising them, to receive from the pay and Accounts Office, High Court, Madras, a sum of Rs.200/- (Rupees Two Hundred only) being the entire court fee paid on the Application by the applicant herein.

6) 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 23RD 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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ARS
11.04.2022

Arb.Appln. No.236 of 2021

ORDER

DATED : 23.03.2022

THE HON'BLE MR. JUSTICE
M.SUNDAR

FOR APPROVAL : 12.04.2022

APPROVED ON : 13.04.2022

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...Respondent

Arbitration Application praying that this Hon'ble Court be pleased to direct the respondent to furnish security to the extent of Rs. 1502984/- failing which order attachment of the property mentioned in the schedule to the Judges Summons through the District court at Thanjavur.

This Arbitration Application coming on this day before this court for hearing, **the Court made the following order:-**

Read this in conjunction with and in continuation of earlier proceedings made in the previous listing on 09.03.2022.

2. Mr.M.Arunachalam, learned counsel for applicant and Mr.Sai Suraj, learned counsel for the lone respondent are before this Court.

3. Learned counsel for applicant on instructions submits that 'Arbitral Tribunal' ['AT'] has since been constituted and that the sittings of AT are also underway.

4. In the light of the aforesaid development, this Court is of the considered view that the captioned application can be relegated/referred to AT.

5. It is open to the applicant to file an application with similar/same prayer before AT or present the captioned application before AT with a request to treat the same as one under Section 17 of 'The

Arbitration and Conciliation Act, 1996 (Act No.26 of 1996)', which shall hereinafter be referred to as 'A and C Act.

6. If the applicant chooses the above trajectory, AT shall consider the captioned application on its own merits and in accordance with law uninfluenced by this order. Though obvious it is made clear that this Court has not expressed any view or opinion on the merits of the matter in this order.

7. Learned counsel for applicant requests for refund of Court fee paid in captioned application. This takes us to Section 69-A of 'Tamil Nadu Court Fees and Suits Valuation Act, 1955 [Act No. XIV of 1955]' (hereinafter shall be referred to as 'Tamil Nadu Court Fees Act' for the sake of convenience and clarity), which reads as follows:

'69-A. Refund on settlement of disputes under

Section 89 of Code of Civil Procedure:

Where the Court refers the parties to the suit to any of the modes of settlement of dispute referred to in Section 89 of the Code of Civil Procedure, 1908 (Central Act V of 1908), the fee paid shall be refunded upon such reference. Such refund need not await for settlement of the dispute.'

8. A careful perusal of Section 69-A of Tamil Nadu Court Fees Act makes it clear that when parties are referred to any of the modes of settlement adumbrated under Section 89 of 'The Code of Civil Procedure, 1908' [hereinafter 'CPC' for the sake of brevity], the fee paid by the litigant shall be refunded and such a refund need not await settlement of dispute.

9. This takes us to Section 89 of CPC which reads as follows:

'89.Settlement of disputes outside the Court.- (1)

Where it appears to the Court that there exist elements of a settlement which may be acceptable to the parties, the Court shall formulate the terms of settlement and give them to the parties for their observations and after receiving the observations of the parties, the Court may reformulate the terms of a possible settlement and refer the same for -

(a) arbitration;

(b) conciliation;

(c) judicial settlement including settlement through Lok Adalat; or

(d) mediation.

(2) Where a dispute has been referred-

(a) for arbitration or conciliation, the provisions of the Arbitration and Conciliation Act, 1996 (26 of 1996) shall

apply as if the proceedings for arbitration or conciliation were referred for settlement under the provisions of that Act;

(b) to Lok Adalat, the Court shall refer the same to the Lok Adalat in accordance with the provisions of sub-section (1) of section 20 of the Legal Services Authority Act, 1987 (39 of 1987) and all other provisions of that Act shall apply in respect of the dispute so referred to the Lok Adalat;

(c) for judicial settlement, the Court shall refer the same to a suitable institution or person and such institution or person shall be deemed to be a Lok Adalat and all the provisions of the Legal Services Authority Act, 1987 (39 of 1987) shall apply as if the dispute were referred to a Lok Adalat under the provisions of that Act;

(d) for mediation, the Court shall effect a compromise between the parties and shall follow such procedure as may be prescribed.'

10. A careful perusal of Section 89 of CPC makes it clear that arbitration is one of the modes of settlement adumbrated in Section 89 of CPC.

11. As captioned application has now been referred to arbitration the request of the applicant for refund of Court fee is acceded to.

12. Court fee paid by the applicant in the captioned application shall be refunded by Registry by way of an instrument drawn in favour of the applicant-Company subject to standard deductions if any and such refund shall be by observing the obtaining procedure in this regard.

Captioned application is disposed of in aforesaid manner with aforesaid directives/observations. There shall be no order as to costs.

Sd/-M.S.J.
23.03.2022

//Certified to be true copy//

Dated at Madras this the day of 2022.

COURT OFFICER(O.S.)

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