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Arb.O.P.(Comm.Div.) No.375 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.11.2022

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

Arb.O.P.(Comm.Div.) No.375 of 2022
and A.No.3594 of 2022

1.M/s.Amudha Engineering Co Pvt Ltd
Rep by its Managing Director Mr.R.Ayyasamy
No.1/12, 261, 2nd Main Road,
Venkateswara Nagar,
Ramapuram, Chennai - 600 089.

2.Mr.A.Suresh
Petitioners

...

vs.

1.M/s.Shriram Transport Finance Company Ltd
No.15/17, Kambar Street,
Lalith Towers, Alandur
Chennai - 600 016.

2.Mr.K.Balasubramanian
District Judge & Registrar General High Court (Retd)
Sole Arbitrator,
No.B2-31, 3rd Floor, Gate No.4,
Jeevan Bhima Nagar (LIC Colony)
Anna Nagar West Extension
Chennai - 600 101.

... Respondents



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PRAYER: Arbitration Original Petition filed under Section 14(2) of the Arbitration and Conciliation Act, 1996, pleaded to terminate the mandate of the second respondent in Arbitration Case No.539 of 2022 in disputes arising out of the loan agreement No.MMBT807070003 dated 07.07.2018.

For Petitioners : Mr.Prashant Rajagopal

For Respondent 1 : M/s.E.Prabu, Mr.M.Peer Mohamed

ORDER

By this petition, the petitioners seek termination of the mandate of the arbitral tribunal. The first respondent had extended credit facilities to the petitioners herein. On the ground that obligations arising thereunder had not been fulfilled, notices dated 06.04.2022 and 30.04.2022 were issued. Pursuant to notice dated 30.04.2022, the arbitral tribunal was constituted. The first petitioner herein objected to the unilateral constitution of the arbitral tribunal under communication dated 10.05.2022. This petition is filed in the above facts and circumstances.



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2. The challenge to the arbitral tribunal is primarily on the ground that the unilateral constitution of the tribunal contravenes the law laid down by the Hon'ble Supreme Court. Learned counsel for the contesting parties state that they have ascertained from learned arbitrator that he agrees to withdraw from such arbitral proceedings in view of the objection raised by the petitioners herein.

3. In view of the above submission, it is unnecessary to adjudicate this petition on merits. The contesting parties admit that there is an arbitration agreement between them providing for the conduct of arbitral proceedings at Chennai. They further submit that they consent to the constitution of the arbitral tribunal by this Court.

4. Accordingly, Arb.O.P.(Comm.Div.) No.375 of 2022 is disposed of by appointing Mr.Abishek Jenasenan, Advocate, No.15, Old No.6, Deivasigamani Street, Royapettah, Chennai - 600 014, Mobile No.9600000036, as the sole arbitrator. The sole arbitrator is requested to



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enter upon reference and adjudicate the dispute. The fees and expenses in respect of the arbitral proceedings shall be fixed by the arbitral tribunal in consultation with the parties. The former arbitrator is called upon to hand over the records of the arbitral proceedings to the arbitrator appointed under this order. Consequently, the connected A.No.3594 of 2022 is closed.

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SENTHILKUMAR RAMAMOORTHY,J

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