



Arb.O.P.(Comm.Div.) No.432 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.11.2022

CORAM

THE HONOURABLE MR.JUSTICE SETHILKUMAR RAMAMOORTHY

Arb.O.P.(Comm.Div.) No.432 of 2022

M/s.Shriram City Union Finance Limited,
A Company having its Branch Office at:
No.12, Ramaswamy Street, T.Nagar,
Chennai - 600 017, rep. by its Authorized
Signatory, Ms.Navinaa P.N.

... Petitioner

vs.

1.Saraswathy.T
2.Thangaraj.K
3.T.Nagarajan
4.Yogaraj.T

... Respondents

PRAYER: Arbitration Original Petition filed under Section 15(2) of the Arbitration and Conciliation Act, 1996, pleased to substitute the arbitrator appointed by the petitioner by appointing any fit and competent person as an Arbitrator so as to adjudicate the claim and the dispute between the petitioner and the respondents under the Loan Agreement dated 30.11.2016.

For Petitioner : Mr.R.Umashankar

ORDER



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The petitioner seeks the appointment of a substitute arbitrator on account of the recusal by the previous arbitrator. Learned counsel for the petitioner draws my attention to the communication dated 19.01.2022 by which learned arbitrator recused in view of objections raised by the respondents.

2. Notice was ordered in this petition on 15.09.2022. Pursuant thereto, an affidavit of service was filed providing evidence of service of notice on the first and second respondents. As regards the third and fourth respondents, the returned postal covers with the endorsement "intimation delivered / unclaimed" was filed. Therefore, the Registry was directed to print the names of all the respondents in the cause list for today's hearing. At the hearing today, there is no representation for any of the respondents. Therefore the matter is proceeded with in their absence.

3. The documents on record include the loan agreement. The said loan agreement contains clause 17, which provides for dispute resolution through arbitration. The petitioner invoked the arbitration clause under



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communication dated 31.03.2021. Pursuant thereto, the arbitral tribunal was constituted. The letter of refusal of learned arbitrator is on record. In these circumstances, the petitioner is entitled to succeed.

4. For reasons set out above, Arb.O.P.(Comm.Div.) No.432 of 2022 is allowed by appointing Mr.Roshan K.Balasubramaniam, Advocate, No.6, Indian Chambers (SICCI), Ground and 2nd Floors, Annex Building, Esplanade, Chennai - 108 (Mobile No.9962097003) as the sole arbitrator in place of the previous arbitrator. The arbitral proceedings shall continue from the stage at which the earlier arbitrator refused. The records of the arbitral tribunal shall be handed over by the earlier arbitrator to the arbitrator appointed under this order. The fees and expenses in relation to the arbitral proceedings may be fixed by the arbitral tribunal in consultation with the parties.

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Index : Yes / No

Internet : Yes / No



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SENTHILKUMAR RAMAMOORTHY,J

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