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ArbO.P.(Com. Div.)No.486 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.11.2022

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THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

Arb.O.P.(Comm.Div.) No.486 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 Authorised
Signatory, Ms.Navinaa P.N.

... Petitioner

vs.

1. S.Natesan,
S/o.Mr.Sengoda Gounder

2. Devi, N.
Wife of Mr.Natesan
Respondents

...

PRAYER: Arbitration Original Petition filed under Section 15(2) of the Arbitration and Conciliation Act, 1996, pleased to a) 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 14.05.2018; (b) Direct the respondents to pay the cost of the petition.

For Petitioner : Ms.N.Swathy for
M/s.Sri & Shankar Associates

For Respondents : M/s.B.Jawahar



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ORDER

The petitioner seeks substitution of the former arbitrator by this Court.

2. The petitioner states that credit facilities were availed of by the respondent under a loan agreement dated 14.05.2018. Clause 18 of the said agreement is relied upon to establish that the agreement provides for dispute resolution by arbitration. Learned counsel refers to the notice dated 17.09.2020 and points out that the said notice qualifies as a notice under Section 21 of the Arbitration and Conciliation Act 1996. Upon constitution of the arbitral tribunal, it is stated that the respondents raised objections to the unilateral constitution of the arbitral tribunal. In those circumstances, learned Arbitrator recused.

3. Learned counsel for respondents admits that the loan agreement provides for dispute resolution by arbitration. He submits that the respondents had challenged the authority of the former arbitrator because of the unilateral constitution of the arbitral tribunal. Without prejudice to contentions on merits, he submits that this Court may



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substitute the arbitrator.

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4. Clause 18 of the loan agreement read with the schedule thereof provides for dispute resolution by arbitration at Chennai. The respondents admit receipt of the Section 21 notice dated 27.10.2020. In these circumstances, the petitioner is entitled to succeed.

5. Accordingly, Arb.O.P.(Com.Div.) No.486 of 2022 is allowed by substituting the former arbitrator with Mr.K.M.Aasim Shehzad, Advocate, No.47/1, Rams Surabi Apartments, 1st Main Road, R.A.Puram, Chennai-600 028 Mobile No.9841026786. The arbitrator appointed under this order is called upon and ender upon reference and adjudicate the dispute in accordance with law. The fees and expenses in relation to the arbitral proceedings shall be fixed in consultation with the parties. The former arbitrator is directed to hand over the records of the arbitral proceedings to the arbitrator appointed under this order. Parties are granted leave to issue a communication to the former arbitrator in this regard.

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Index :Yes/No

Internet:Yes/No

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SENTHILKUMAR RAMAMOORTHY,J

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