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Arb.O.P (Com.Div.) No.80 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 08.06.2023

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

Arb.O.P (Com.Div.) No.80 of 2023

Mercedes-Bens Financial Services Pvt.Ltd.,
(Formerly Known as M/s.Daimler Financial Services Indian Pvt.Ltd.,)
rep. By its Authorised Officer,
Mr.R.A.Sivadhara Adiyaman
A Non-Banking Finance Company
registered with the Reserve Bank of India,
having its registered Office at 5th Floor, Plot No.8,
Baashyam Willow Square 9 and 10,
First Street, Thiru Vika Industrial Estate,
Guindy, Chennai – 600 032.

... Petitioner

Vs.

1. V.G.Granites,
S-360, Ist Floor,
Greater Kailash Part-I,
New Delhi, Delhi – 110 048.
2. N S Exports Proprietor Neetu Sanan,
S-492, 2nd Floor Greater Kailash,
Part -1, New Delhi – 110 048.
3. CH Venugopal,
Plot No.304, E-111 Road, No.78, Jubilee Hills,
Hyderabad, Andhra Pradesh- 500 003.

... Respondents



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Arbitration Original Petition filed under Section 15 (2) of the Arbitration and Conciliation Act, 1996 to appoint Sole Arbitrator to hear and decide the dispute amongst the parties arising out of hypothecation-cum-loan agreement, dated 24.07.2019, as this Court may deem fit and proper in the circumstance of this case and thus render justice.

For Petitioner : M/s.H.Manojin

For Respondent : M/s.Lenin Raj K, no appearance

ORDER

This Arbitration Original Petition has been filed seeking to appoint a Sole Arbitrator to adjudicate upon the disputes arisen between the petitioner and the respondents.

2. The learned counsel for the petitioner submits that the arbitrator nominated by the petitioner has recused himself from acting as Arbitrator, since the respondents raised objections. Therefore, the petitioner is constrained to file the present Petition, seeking for aforesaid relief.



3. After filing of this petition, notice was ordered, the same was served on the respondents and M/s.Giridhar and Sai, learned counsel entered appearance by filing vakalat on behalf of the respondents, but, subsequently, the vakalat was returned and Mr.Lenin Raj K. entered appearance on behalf of the respondents and his name is also printed in the cause list. However, when the matter is taken up today, none appeared representing the respondents.

4. This Court, upon hearing the learned counsel appearing for the petitioner and taking into consideration that, as per the terms and conditions of the loan agreement, dated, 24.07,2019, the present dispute among the parties has arisen out of the said loan agreement, is of the view that, the dispute can be arbitral in terms of clause 85 of the said loan agreement. That apart, in the present case, initially, Asmi Disputes Resolution Forum India nominated an Arbitrator and before the Arbitral Tribunal, the respondent herein filed an application seeking the learned Arbitrator to withdraw from the arbitral proceedings, pursuant to which, the learned Arbitrator has sent a letter, dated 11.01.2023, thereby, terminating the arbitral proceedings.



Hence, the petitioner, having left with no other option has filed this Petition.

Therefore, this Court is inclined to pass orders appointing an Arbitrator to adjudicate the dispute between the parties on the following terms:-

(i) **Ms.V.Vanitha, learned Advocate, having her Office at No85, Additional Law Chambers, High Court Buildings, Chennai, possessing Cell Phone No.90952 49996** is appointed as the Arbitrator to enter upon reference and adjudicate the disputes *inter se* the parties.

ii) The learned Arbitrator appointed herein, shall, after issuing notice to the parties and upon hearing them, pass an award as expeditiously as possible, preferably, within a period of six months from the date of receipt of the Order. The learned Arbitrator is also directed to decide the matter without influenced by any of the observations made by this Court in the present order.

iii) The learned Arbitrator is requested to conduct arbitration proceedings in accordance with the Madras High Court Arbitration Proceedings Rules, 2017 and the fee of the learned Arbitrator shall be fixed in accordance with Madras High Court Arbitration Centre (MHCAC) (Administrative Cost and Arbitrator's Fees), Rules 2017.



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iv) In the event of non-appearance of the respondents/petitioners herein, the petitioner/respondents herein shall bear the entire remuneration and other expenses and thereafter, the petitioner/respondents can recover the same directly from the respondents/petitioner herein.

v) Since this Court has appointed an Arbitrator, it is open to the petitioner as well as the respondents herein to seek other reliefs under the provisions of Arbitration and Conciliation Act 1996 before the learned Arbitrator.

7. This Application is ordered, accordingly. No costs.

08.06.2023

Speaking/Non-speaking order
Index : Yes / No
Neutral Citation: Yes / No
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KRISHNAN RAMASAMY.J.,
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