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Arb.O.P.(Com.Div.) No.320 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.07.2023

CORAM

THE HON'BLE Mr. JUSTICE ABDUL QUDDHOSE

Arb.O.P (Com.Div.) No.320 of 2023

1.M.Maheshkumar

2.Sujatha

3.United Traders,

rep. by its Partner Maheshkumar

... Petitioners

Versus

M/s.Hinduja Leyland Finance Ltd.,

rep. by its Legal Manager

C.Sangeetha

... Respondent

Prayer: Arbitration Original Petition (Commercial Division) filed under Section 34(2)(ii) of the Arbitration and Conciliation Act, 1996 to set aside the Award dated 13.03.2023 in Proceedings VIN/HLF/Arb. No.9 of 2023.

For Petitioners : Mr.N.R.Rajagopalan

For Respondent : Mr.M.Aravindan

ORDER

This petition has been filed under Section 34 of the Arbitration and Conciliation Act challenging the impugned Arbitral Award dated 13.03.2023



on the ground that unilaterally, the respondent has appointed an Arbitrator, which has culminated in passing of the impugned Arbitral Award.

2.This Court has perused and examined the Arbitral Award. Admittedly, an Arbitrator has been unilaterally appointed by the respondent as seen from the impugned Arbitral Award.

3.Learned counsel for the respondent also accepts the same.

4.It is settled law as laid down by the decision of the Hon'ble Supreme Court in the case of **Perkins Eastman Architects DPC and another vs. HSCC (India) Limited reported in (2020) 20 SCC 760** that a party to the dispute cannot unilaterally appoint an Arbitrator.

5.In the instant case, since the respondent has unilaterally appointed an Arbitrator, which has culminated in passing of the impugned Arbitral

Award, the impugned Arbitral Award is per se illegal in terms of the



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judgment of the Hon'ble Supreme Court in Perkins case, referred to supra.

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6.For the foregoing reasons, the impugned Arbitral Award is hereby set aside and this petition is allowed as prayed for.

7.Liberty is granted to both the parties to initiate fresh Arbitration in accordance with law. No costs.

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vga

Index:Yes/No

Speaking/Non-speaking orders



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ABDUL QUDDHOSE, J.

vga

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