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Arb.O.P.(Com.Div.) No.316 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.09.2023

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THE HON'BLE Mr. JUSTICE ABDUL QUDDHOSE

Arb.O.P (Com.Div.) No.316 of 2023

M/s.Tata Capital Financial Services Limited,
represented by its Authorised Signatory/
Power of Attorney
Ram Kumar.S.

... Petitioner

Versus

Bandi Rambabu

... Respondent

Prayer: Arbitration Original Petition (Commercial Division) filed under Section 11(6) of the Arbitration and Conciliation Act, 1996 to appoint/substitute a Sole Arbitrator to adjudicate upon the differences and disputes between the parties under the said agreement dated 22.06.2022 in respect of contract bearing No.TCFPL0453000011476387.

For Petitioner : Mr.M.Arunachalam

For Respondent : No appearance

ORDER

This petition has been filed under Section 11 of the Arbitration and Conciliation Act seeking for appointment of an Arbitrator by this Court.



2.The petitioner is a Non Banking Financial Institution and the respondent has entered into a Loan Agreement dated 22.06.2023 with the petitioner. There seems to be a dispute arising out of the same. There is an Arbitration Clause available in the Loan Agreement dated 22.06.2023, which is the subject matter of the dispute, which is extracted hereunder:

'10.Arbitration

If any dispute, difference or claim arises between any of the Borrower and the Lender in connection with the facility or as to the interpretation, validity, implementation or effect of the facility documents or as to the rights and liabilities of the parties under the facility documents or alleged breach of the facility documents or anything done or omitted to be done pursuant to the facility documents, the same shall be settled by arbitration by a sole arbitrator to be appointed by any of the following institutions:

(a)The Council for National and International Commercial Arbitration having its office at Unit No.208, 2nd Floor, Beta Wing, Raheja Towers, Nos.113-134, Anna Salai, Chennai - 600 002.

(b)Centre for online resolution of disputes having its office at F-14, 3rd Cross, Manyata Residency, Manyata Tech Park, Bengaluru - 560 045.



(c)The Centre for Alternative Dispute Resolution Excellence having its Office at 107C, Mulberry Woods, Janatha Colony, Carmeleram Station Road, Doddakanneli, Bengaluru - 560 035.

(d)ADR E-Sarvatra Private Limited having its office at 63, Palace Road, Vasanth Nagar, Bengaluru - 560 052.

(e)Any arbitral institution designated under the provisions of the Arbitration or Conciliation Act, 1996.

("the Act") or any panel of arbitrators maintained under the provisions of that Act.

Hereinafter referred to as ("Institution") in accordance with the rules of the institution as prevailing and as amended from time to time.'

3.The petitioner has invoked Arbitration in accordance with the Arbitration Clause on 15.11.2022 by appointing an Arbitrator. However, in view of the objections raised by the respondent due to the unilateral appointment, the Arbitrator, acting upon the reference, has recused himself from being the Arbitrator. In the aforementioned circumstances, the petitioner has now filed this petition under Section 11 of the Arbitration and Conciliation Act seeking for appointment of an Arbitrator by this Court.



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4.The respondent has been served through substituted service. The name of the respondent has been printed in the cause list. Since the respondent has chosen not to enter appearance till date, the respondent is set exparte by this Court.

5.Since there is a valid Arbitration Clause available in the Loan Agreement dated 22.06.2022, which is the subject matter of the dispute between the parties, this Court will have to necessarily appoint an Arbitrator under Section 11 of the Arbitration and Conciliation Act.

6.For the foregoing reasons, this Arbitration Original Petition is allowed as prayed for by issuing the following directions:

(a)This Court appoints Mr.Subramanian Vaidyanathan, Advocate, having Office at No.20, Madhumalathi, Seethammal Road, Seethammal Colony, Alwarpet, Chennai – 600 018 (Mobile 8816816896) as the Sole Arbitrator to adjudicate the dispute between the petitioner and the respondent arising out of the Loan Agreement dated 22.06.2022, on merits and in accordance with law.



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(b)The Arbitrator shall be paid his remuneration / fees in accordance with the 4th Schedule of the Arbitration and Conciliation Act, 1996.

(c)Both the parties shall equally share the Arbitrator's fees.

(d)The Arbitrator shall conduct the arbitration in accordance with the provisions of the Arbitration and Conciliation Act, 1996 and shall complete the arbitration within the specified time as prescribed under the said Act.

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ABDUL QUDDHOSE, J.

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