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Arb.O.P.(Com.Div.) No.315 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.08.2023

CORAM

THE HON'BLE Mr. JUSTICE ABDUL QUDDHOSE

Arb.O.P (Com.Div.) No.315 of 2023

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

... Petitioner

Versus

C.Saravanan

... 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 24.03.2021 in respect of contract bearing No.TCFPL0485000011025221.

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 availed loan from the petitioner under a Loan Agreement dated 24.03.2021. There seems to be a dispute arising out of the same.

There is an Arbitration Clause available in the Loan Agreement dated 24.03.2021, which is extracted hereunder:

'10.Arbitration

If any dispute, difference or claim arises between the Borrower and the Lender in connection with the Additional 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/these Terms and Conditions or alleged breach of the Facility Documents/these Terms and Conditions or anything done or omitted to be done pursuant to the Facility Documents/these Terms and Conditions, the same shall be settled by arbitration to be held in [Mumbai/Delhi/Kolkata/Chennai] as may be decided by the Lender in accordance with the Arbitration and Conciliation Act, 1996, or any statutory amendments thereto and shall be referred to a Sole Arbitrator to be appointed by the Lender. The award of the arbitrator shall be final and binding on all parties concerned. The arbitration proceedings shall be in English language. Cost of arbitration shall be borne by the



Borrower.'

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3.In terms of the Arbitration Clause, the petitioner has invoked Arbitration by issuing a notice to the respondent on 27.09.2022. A reply has also been received from the respondent, which is dated 06.10.2022 as well as 13.10.2022.

4.Since there is no consensus between the parties with regard to the name of the Arbitrator, the petitioner has filed this petition under Section 11 of the Arbitration and Conciliation Act seeking for appointment of an Arbitrator.

5.Notice sent in this petition has been duly served on the respondent and his name is also printed in the cause list today. However, till date, no one entered appearance on behalf of the respondent.

6.Since there is a valid Arbitration Agreement between the parties



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and there has been no consensus with regard to the name of the Arbitrator, this Court will have to necessarily appoint an Arbitrator under Section 11 of the Arbitration and Conciliation Act.

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

(a)This Court appoints Mr.Keerthikiran Murali, having Office at III Floor, Ceebros Building, No.32, Cenetoph Road, Alwarpet, Chennai – 600 018 (Mobile 9655446098) Advocate as the Sole Arbitrator to decide the dispute between the petitioner and the respondent arising out of the Agreement dated 24.03.2021 in respect of contract bearing No.TCFPL0485000011025221, on merits and in accordance with law.

(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.



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(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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Index:Yes/No
Speaking/Non-speaking orders



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ABDUL QUDDHOSE, J.

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