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Arb.A.Nos.270 to 274 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.07.2023

CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

Arb.A.Nos.270 to 274 of 2023

M/s. Tata Capital Financial Services Limited

Having its registered office at

11th Floor, Tower A,

Peninsula Business Park,

Ganpatrao Kadam Marg,

Lower Parel, Mumbai - 400013

Having one of its Branch office at

Centennial Square, 1st Floor, 6A,

Dr.Ambedkar Salai,

Kodambakkam, Chennai - 600024,

Represented by its Authorised signatory

Mr.D.Kalai Arasan

...Applicant in Arb.A.'s

vs.

1.Venkateswara Crushers

A partnership Firm

No.815, Adaimithipankulam Taruvai,

Tirunelveli - 627356.

...Respondent in Arb.A.No.273 of 2023

1.Venkateswara Crushers

A partnership Firm

No.815, Adaimithipankulam Taruvai,

Tirunelveli - 627356.

2.A.S.Kumar,

No.46, Sudar Nagar,

Vettrivillai Road, Thsayanvillai,

Tirunelveli - 627657.



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... Respondents in Arb.A.Nos.270, 271, 272 & 274 of 2023

Prayer in Arb.A.No.270 of 2023: Arbitration Application filed under Section 9 of the Arbitration and Conciliation Act, 1996 to appoint an advocate commissioner to seize and deliver the Asset KOBELCO - SK 220 XDLC-10 HYDRAULIC EXCAVATOR Commercial equipment bearing Engine No.YQ15512203, Chassis No.J05ETG48301 available at the Respondent's premises or wherever found and permit the advocate commissioner to obtain police aid and to break open the premises.

Prayer in Arb.A.No.271 of 2023: Arbitration Application filed under Section 9 of the Arbitration and Conciliation Act, 1996 to appoint an advocate commissioner to seize and deliver the Asset PARTS OF CRUSHING AND SCREENING PLANT - CHUTE HRD ITEMS OF PLANT SP1141 & CONVEYOR HRD ITEMS OF SP1141 PLANT AND ACCESSORIES Construction equipment bearing HSN/SAC Code No.84741090 available at the Respondent's premises or wherever found and permit the advocate commissioner to obtain police aid and to break open the premises.

Prayer in Arb.A.No.272 of 2023: Arbitration Application filed under Section 9 of the Arbitration and Conciliation Act, 1996 to appoint an advocate commissioner to seize and deliver the Asset PROPEL - PROWASH 250 TPH-V 2.0 Commercial equipment bearing HSN/SAC Code No.84741090 available at the Respondent's premises or wherever found and permit the advocate commissioner to obtain police aid and to break open the premises.

Prayer in Arb.A.No.273 of 2023: Arbitration Application filed under Section 9 of the Arbitration and Conciliation Act, 1996 to appoint an advocate commissioner to seize and deliver the Asset KOBEL - SK 220 XD & PARTS AND ACCESSORIES - HYDRAULIC EXCAVATOR bearing Machine No.YN15-B-1378 & Engine No.J05ETA-50636 available at the Respondent's premises or wherever found and permit the advocate commissioner to obtain police aid and to break open the premises.

Prayer in Arb.A.No.274 of 2023: Arbitration Application filed under Section 9 of the Arbitration and Conciliation Act, 1996 to appoint an



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advocate commissioner to seize and deliver the Asset PARTS OF CRUSHING AND SCREENING PLANT - CHUTE MFG ITEMS OF PARTS SP1141-3 AND ACCESSORIES available at the Respondent's premises or wherever found and permit the advocate commissioner to obtain police aid and to break open the premises.

In all Arb.A.'s
For Applicant : Mr.M.Arunachalam
For respondents : Mr.Harshavardhan

COMMON ORDER

A common memo has been filed in Arb.Appln.Nos.271 to 274 of 2022 and a separate memo has been filed in Arb.Appln.No.270 of 2023. As seen from the aforesaid memos, the respondents have regularized the respective loan contracts with the applicant.

2. Under those circumstances, the applicant seeks for withdrawal of these applications with liberty to file a fresh case, in case the respondents commit default under the regularized contracts.

3. Learned counsel appearing for the respondents would also submit that the respondents have regularized contracts with the applicant. He would also submit on instruction that the respondents undertake to pay the monthly instalments to the applicant as per the regularized contracts without committing any default. He has also not raised any serious objections with regard to the submission made by the learned



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counsel for the applicant that in case the respondent commits default in the payment of the monthly instalments as per regularized contracts, the applicant shall be granted liberty to file fresh application seeking for similar relief.

4. After recording the two Memos filed by the learned counsel for the applicant, as stated supra, these applications are dismissed as withdrawn. However, liberty is granted to the applicant to file similar applications in case the respondents commit any default in the payments of the monthly instalment as per the regularised contracts.

10.07.2023

mpl

Index: Yes/ No

Speaking order / Non speaking order

Neutral citation : Yes / No



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ABDUL QUDDHOSE, J.

mpl

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