



Arb.O.P. (Com.Div.) No.446 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.10.2023

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

Arb.O.P.(Com.Div.)No.446 of 2023

M/s.Moksha Distributors,
Represented by Proprietor
Sri.M.Pratik Jain,
No.38, 1st Floor, Shop No.7 & 8,
Jayshree Complex,
Uttaradi Mutt Lane, Chickpet,
Bengaluru – 560 053

.. Petitioner

Vs.

M/s.Equitas Small Finance Bank Ltd.,
(Previously known as Equitas Finance Ltd.,)
Represented by the Branch Manager,
No.92, A Main Road,
Near Shankar Mutt Signal, LIC Colony,
Basaveshwara Nagar,
Bengaluru – 560 079.

Head Office at:

4th Floor, Phase II,
Spencer Plaza, No.769,
Mount Road, Anna Salai,
Chennai, Tamil Nadu – 600 002.

.. Respondent

Prayer: Original Petition is filed under Section 11(6) of the Arbitration and Conciliation Act, 1996, praying to appoint an independent Sole



Arbitrator to decide and adjudicate upon the dispute between the applicant and respondent arising out of Contract of loan vide Clause 38 of the terms of sanction letter dated 23.03.2021, vide Annexure A.

For Petitioner : Ms.M.Vidya

For Respondent : No appearance

ORDER

This petition has been filed under Section 11(6) of the Arbitration and Conciliation Act, 1996 for appointment of an Arbitrator in terms of sanction letter dated 23.03.2021, vide Annexure A.

2.The notice on the respondent Bank has been served and its name is also printed in the cause list. Despite the same, there is no representation on behalf of the respondent Bank.

3.The petitioner has entered into an agreement with the respondent. The petitioner has been given a sanctioned letter dated 23.03.2021 by the respondent Bank. The said sanctioned letter dated 23.03.2021 contemplates the resolution of dispute between the petitioner



and respondent by way of Arbitration Clause 38 of the said sanctioned letter dated 23.03.2021 bearing Ref.No.:ESFB/SOU/BAN/Mar-FY 21/Sr.No.105, which reads as under:

“38.Any dispute arising out of this term sheet shall be resolved by arbitration of a sole arbitrator to be appointed by the bank in accordance with the Arbitration and Conciliation Act, 1996. The place of arbitration shall be Chennai. The award given by Arbitrator shall be final and binding upon all the parties.”

4.The place of Arbitration has been fixed at Chennai. The petitioner is from Bangalore. The respondent is also from Bangalore and their Head Office is at Chennai.

5.Since, the dispute between the petitioner and respondent is arbitrable, Court is inclined to pass the following order:-

(i) Mr.P.Ganesan, M.A.,B.L., District Judge (Rtd.), (Mobile No.:9600045571) residing at No.778, Judges Colony, Kakithapuram 4th Street, S.Kolathur, Kovilambakkam, Chennai – 600 117, is



appointed as an Arbitrator to enter upon reference and adjudicate / resolve the *inter se* dispute between the parties.

(ii) The learned Arbitrator appointed herein, shall after issuing notice to the parties and upon hearing them, endeavour to complete the arbitral proceedings and pass an award strictly in accordance with the provisions of the Arbitration and Conciliation Act, 1996, as expeditiously as possible, preferably within a period of twelve months after the date of completion of pleadings under Sub-Section 4 to Section 23 as is contemplated in Section 29-A of the Arbitration and Conciliation Act, 1996, without getting influenced by any of the observations made by this Court in this order.

(iii) The learned Arbitrator appointed herein shall be paid fees and other incidental charges as may be fixed with the consent of parties or in accordance with the provisions of the Arbitration and Conciliation Act, 1996, and the same shall be borne by the parties equally. In case, the respondent remains *ex parte*, the petitioner shall pay the entire fee and other incidental charges to the Arbitrator and later recover the same from the respondent.



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6.The Original Petition is disposed of with the above observations, leaving the parties to bear their own costs.

7.Since the Court has appointed an Arbitrator, it is open to the petitioner as well as the respondent to seek other reliefs under Section 17 of the Arbitration and Conciliation Act, 1996, before the learned Arbitrator.

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Index : Yes / No
Internet : Yes / No
Neutral Citation : Yes / No



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C.SARAVANAN, J.

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