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Arb.O.P.(Com.Div.) No.375 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.08.2023

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THE HON'BLE Mr. JUSTICE ABDUL QUDDHOSE

Arb.O.P (Com.Div.) No.375 of 2023
and A.No.4200 of 2023

1.Ajay Upadhyay
Sole Proprietor of SBTraders
Telangana.

2.Ajay Upadhyay

3.Vratika Vyas

... Petitioners

Versus

1.M/s.Cholamandalam Investment and
Finance Company Ltd.,
Dare House, 2, NSC Bose Road,
Parrys, Chennai - 600 001.

2.Mr.R.Ganesan

... Respondents

Prayer: Arbitration Original Petition (Commercial Division) filed under Section 14(2) of the Arbitration and Conciliation Act, 1996 to terminate the mandate of Mr.R.Ganesan, District Judge (Retd.)



Arb.O.P.(Com.Div.) No.375 of 2023

For Petitioners : Mr.Hredai H.S.

For R1 : Mr.B.V.Diveyadharsan for
Mr.S.Namasivayam for R1

ORDER

This petition has been filed under Section 14 of the Arbitration and Conciliation Act seeking to terminate the mandate of the Arbitrator on the ground that unilaterally the first respondent had appointed an Arbitrator.

2.Learned counsel appearing for the first respondent through Video Conferencing would fairly submit that an Arbitrator was appointed unilaterally by the first respondent. He also agrees that the mandate of the Arbitrator can be terminated by this Court. He also submits, on instructions that the first respondent is willing for fresh appointment of an Arbitrator to be made by this Court.

3.Learned counsel for the petitioners is also agreeable for the same, after having received instructions for the same. However, he would submit that the Sole Arbitrator had earlier passed an order under Section 17 of the



Arbitration and Conciliation Act to direct the first respondent to sell the premises of the petitioner. Therefore, he would submit that the said order will have to be set aside by this court.

4.Since the relief sought for in this petition is only to terminate the mandate of the Arbitrator, such a relief cannot be granted by this Court in this petition.

5.Both the Counsels have also made an endorsement in the Court Bundle today, on instructions that the parties are willing for appointment of a fresh Arbitrator by this Court. The said endorsement is recorded.

6.For the foregoing reasons, the mandate of the Arbitrator, for which this petition has been filed under Section 14 of the Arbitration and Conciliation Act, is terminated and this Arbitration Original Petition is allowed as prayed for by issuing the following directions:

(a)This Court appoints Mr.M.Nazir Ahamed, Former District Judge, having Office at B-606, Altis Ashraya, Kundrathur Main Road, Mangadu,



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ABDUL QUDDHOSE, J.

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Chennai - 600 122 (Mobile No.9443413106) as the Sole Arbitrator to decide the dispute between the petitioner and the respondents arising out of the Loan Agreement dated 25.09.2022, 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.

(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. Consequently, Application No.4200 of 2023 stands closed.

21.08.2023

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Index:Yes/No

Speaking/Non-speaking orders

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