



ARB.O.P.(Com.Div) No.105 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.08.2023

CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

Arb.O.P.(Com.Div) No.105 of 2022
and A.No.897 of 2022

1.Mr.Muralikrishnan. P

2.Kavitha

... Petitioners

Vs.

M/s.Indusind Bank Ltd.,
Rep. by its authorized representative,
No.116, G.N. Chetty Road,
T. Nagar, Chennai – 600 017.

... Respondent

Prayer : Arbitration Original Petition (Commercial Division) filed under Section 34(2) (2-A) & (3) of the Arbitration and Conciliation Act, 1996, praying to set aside the Arbitral Award dated 14.09.2021 passed by the Sole Arbitrator in Arbitration KHCP/277/2021 in its entirety or to the extent to which it is challenged and to direct the respondent to pay the costs.

For petitioners : Mr.S. Senthilvel

For respondent : Mr.K. Moorthy



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ORDER

This petition has been filed under Section 34 of the Arbitration and Conciliation Act, challenging the Arbitral Award dated 14.09.2021 passed in favour of the respondent against the petitioners.

2. The petitioners had availed a loan from the respondent under a loan contract. The respondent had initiated arbitration against the petitioners by unilaterally appointing an Arbitrator which culminated in passing of the impugned Arbitral Award dated 14.09.2021. Under the impugned Arbitral Award, the petitioners have been directed to pay certain sums of money to the respondent.

3. It is a settled law as per the decision of the Hon'ble Supreme Court in the case of '*Perkins Eastman Architects DPC and another Vs. HSCC (India) Ltd.*', reported in '*(2020) 20 SCC 760*', that appointment of an Arbitrator unilaterally, by a party to the dispute, is not legally permissible.



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4. This Court has perused and examined the impugned Arbitral Award dated 14.09.2021. As seen from the impugned Arbitral Award, a Sole Arbitrator has been appointed unilaterally by the respondent without the consent of the petitioners.

5. Being an unilateral appointment by a party to the dispute, necessarily, the impugned Arbitral Award dated 14.09.2021 has to be set aside by this Court.

6. Accordingly, the impugned Arbitral Award dated 14.09.2021 passed by the Sole Arbitrator in Arbitration KHCP/277/2021, is hereby set aside and this petition stands allowed. However, liberty is granted to both the parties to initiate a fresh arbitration in accordance with law. Connected application is closed.

02.08.2023

Index: Yes/ No
Speaking/Non-speaking order
Internet: Yes/No

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ABDUL QUDDHOSE, J.

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