



Arb.Appln.No.390 of 2023

C.SARAVANAN, J.

Earlier, on 22.09.2023, this Court had passed a conditional order recording the undertaking of the respondents that the respondents will deposit Rs.3,00,000/- within a period of fifteen days from the date of the order.

2. The learned counsel for the applicant confirms that the respondents have deposited Rs.3,00,000/- pursuant to the aforesaid conditional order dated 22.09.2023. It is noticed that the total claim according to the applicant is Rs.10,00,000/-.

3. It is also noticed that in a connected proceedings in Arb.Appln.No.391 of 2023, on 02.01.2024, this Court has referred the parties to workout the dispute before the learned Arbitrator in accordance with the arbitration clause in the Loan-cum-Hypothecation Agreement dated 28.11.2018 in Arb.Appln.No.391 of 2023.



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4. In this Application, the Term Loan-cum-Hypothecation Agreement dated 01.03.2019 contemplates resolution of dispute by way of arbitration.

5. Relevant Clause for resolving the dispute between the parties under the Term Loan-cum-Hypothecation Agreement dated 01.03.2019 reads as under:-

"11. Miscellaneous Provisions:

11.4. Arbitration and Jurisdiction:

Any disputes or differences arising between the parties hereto as to the interpretation of this Agreement or in connection with this Agreement or any covenants or conditions thereof or as to the rights, duties, or liabilities of any party hereunder or as to any act, performance or non-performance of any act, deed or thing as agreed under this Agreement or matter or thing arising out of relating to or under this Agreement (even though the Agreement may have been terminated), the same shall be referred to a Sole Arbitrator to be appointed by the Lender, according to the provisions of Arbitration and Conciliation Act, 1996, and rules thereunder and any amendment thereto from time to time.

The Language of arbitration shall be English. All cost of arbitration including the arbitrator's fees, advocate fees, travelling cost other miscellaneous



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expenses shall be borne equally by the parties hereto. The award of the arbitrator shall be a speaking award and shall be final, conclusive and binding on all the parties whether on question of law or of fact. In the event of death, refusal, negligence, inability, incapability of the persons so appointed to act as a Sole Arbitrator, a new Arbitrator shall be appointed by the Lender. The venue of arbitration shall be Pune or such other place that the Lender may in the sole discretion determine and Courts in Pune or such other place shall have exclusive jurisdiction.

This Agreement shall be governed by and construed in all respects with Indian Laws and the parties hereto agree that any matter or issues arising hereunder or any disputes hereunder shall, at the discretion of the Lender be subject to the exclusive jurisdiction of the courts of the city of Pune or such other place as the Lender may deem fit. This shall not however limit the rights of the Lender to take proceedings in any other Court of competent jurisdictions."

6. Considering the fact that the parties are same and the disputes are identical in both Arb.Appln.Nos.390 and 391 of 2023, this Court is of the view that this is a fit case for referring the dispute to an arbitrator in terms of the aforesaid Term Loan-cum-Hypothecation Agreement dated 01.03.2019.



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7. Considering the above, this Court is inclined to appoint Mr.S.Vasudevan, Advocate, as an arbitrator to adjudicate the dispute between the parties.

8. Hence, **Mr.S.Vasudevan, Advocate, Enrollment No.980/1990, (Mobile No.98842 89896) having office at No.278, Additional Law Chamber, High Court Buildings, Chennai,** is appointed as an arbitrator to enter upon reference and resolve the *inter se* dispute between the parties.

9. 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 29A of the Arbitration and Conciliation



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Act, 1996, without getting influenced by any of the observations made by this Court in this order.

10. 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 respondents remain *ex parte*, the applicant shall pay the entire fee and other incidental charges to the learned Arbitrator and later recover the same from the respondents.

11. Since this Court has appointed the Arbitrator, it is open for the applicant as well as the respondents to seek other reliefs under Section 16 and Section 17 of the Arbitration and Conciliation Act, 1996, before the learned Arbitrator.



C.SARAVANAN, J.

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12. This Arbitration Application is allowed accordingly, leaving the parties to bear their own costs.

05.02.2024

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