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Arb.O.P.(Com.Div.) No.309 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.07.2023

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THE HON'BLE Mr. JUSTICE ABDUL QUDDHOSE

Arb.O.P (Com.Div.) No.309 of 2023

M/s.Mercedes-Benz Financial Service India Pvt. Ltd.,
(Formerly known as Daimler Financial Services Pvt. Ltd.),
rep. by its Authorised Signatory
Ra.Sivadhara Adiyaman

... Petitioner

Versus

Hemant Nanda

... Respondent

Prayer: Arbitration Original Petition (Commercial Division) filed under Section 11(6) of the Arbitration and Conciliation Act, 1996 to appoint an Arbitrator in accordance with Clause 66 of the Agreements dated 07.03.2022 to adjudicate upon the disputes that have arisen between the parties in relation to the agreements.

For Petitioner : Ms.R.Renuka Devi

For Respondent : No appearance

ORDER

This petition has been filed under Section 11 of the Arbitration and Conciliation Act seeking for appointment of an Arbitrator.



2.The petitioner is a Financial Institution. The respondent seems to have borrowed money from the petitioner for the purchase of a vehicle under a Contract dated 07.03.2022. The respondent seems to have committed default in the repayment of the loan to the petitioner. There seems to be a dispute between the petitioner and the respondent, which has arisen out of the Contract dated 07.03.2022. There is an Arbitration Agreement in the Contract dated 07.03.2022, which is extracted hereunder:

'All claims and disputes arising under or relating to this Loan Agreement, are to be settled by binding arbitration in the State of Tamil Nadu, specifically Chennai or another location as desired by the lender. The Arbitration shall be conducted on a confidential basis and shall be subject to the Arbitration and Conciliation Act, 1996 of India. Any decision or award as a result of any such arbitration proceedings shall be in writing and shall provide an explanation for all conclusions of law and fact and shall include the assessment of costs, expenses and reasonable attorney's fees. Any such arbitration shall be conducted by single arbitrator appointed by the Lender. The arbitration proceeds shall include a written record of the arbitration hearing. An award of arbitration may be confirmed in a Court of competent jurisdiction.'



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3.The petitioner has invoked Arbitration by sending a legal notice to the respondent on 12.11.2022. Since there has been no consensus between the parties with regard to the name of the Arbitrator, the petitioner has filed this petition under Section 11 of the Arbitration and Conciliation Act.

4.Notice has been duly served on the respondent and the name of the respondent is also printed in the cause list. Since there is a valid Arbitration Agreement between the parties and there has been no consensus with regard to the name of the Arbitrator, this Court will have to necessarily appoint an Arbitrator under Section 11 of the Arbitration and Conciliation Act.

5.For the foregoing reasons, this Arbitration Original Petition is allowed as prayed for by issuing the following directions:

(a)This Court appoints Mr.M.S.Sampath, New No.12 (Old No.42), 3rd Cross Street, Minor Trustpuram, Choolaimedu, Chennai – 600 094 (Mobile 9841159996) Advocate as the Sole Arbitrator to decide the dispute between



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the petitioner and the respondent arising out of the Agreement dated 07.03.2022, on merits and in accordance with law.

ABDUL QUDDHOSE, J.

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(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.

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Index:Yes/No

Speaking/Non-speaking orders



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