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Arb.OP.(comdiv) No.269 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.10.2024

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THE HONOURABLE **MR.JUSTICE G.K.ILANTHIRAIYAN**

Arb.O.P.(Comm.Div.) No.269 of 2024

M/s.TVS Credit Services Ltd.,
Having office at Chaitanya No.12,
Khader Nawaz Khan Road,
Nungambakkam, Chennai – 6.

.. Petitioner

-VS-

1.M/s.Manchanda Autos,
Rep. By its Proprietor/Authorized Signatory
Mrs.Samarjit Kaur,
Chandigarh, Punjab – 160002.

2.Mrs.Samarjit Kaur
3.Mr.Birjyote Singh

.. Respondents

Petition under Section 11 of the Arbitration and Conciliation Act, 1996, has been filed seeking to appoint a sole arbitrator to adjudicate the dispute between the petitioner and the respondents under the agreement dated 02.09.2021 in respect of Contract Nos.MH5005MS0065208.

For Petitioner : Mr.M.Arunachalam

For Respondents : No Appearance



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ORDER

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This petition has been filed under Section 11 of the Arbitration and Conciliation Act, 1996, seeking for appointment of an Arbitrator.

2. Despite service notice on the respondents, no one has represented on behalf of them, and their names are also printed in the cause list.

3. According to the petitioner, the respondents had approached the petitioner to avail financial assistance and accordingly, a loan agreement dated 02.09.2021 was entered into between the petitioner and the respondents.

4. There seems to be a dispute between the petitioner and the respondents arising out of the loan agreement dated 02.09.2021. There is an arbitration clause available in the agreement dated 02.09.2021, which is extracted hereunder:-

“All disputes, differences and/or claims arising out of this agreement whether during its subsistence or thereafter shall be settled by arbitration in accordance with the provisions of the Arbitration and Conciliation Act, 1996, and or any statutory amendments thereof and shall



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be referred to the sole arbitration of an arbitrator nominated by the Lender. The award given by such arbitrator shall be final and binding on all parties to this agreement. In the event of an appointed arbitrator dying or being unable or willing to act as arbitrator for any reason, the Lender, on such death of the arbitrator or his inability or unwillingness to act as arbitrator, shall appoint another person to act as arbitrator. Such person shall be entitled to proceed with the reference from the stage it is left by his predecessor. The venue of arbitration proceedings shall be at Chennai. The borrower agrees to a fast track arbitration to be disposed within 90 days from the date of reference.”

5. The petitioner had invoked the arbitration in accordance with the arbitration clause found in the agreement dated 02.09.2021 by sending a notice to the respondents on 02.03.2022. Although the petitioner suggested name of the arbitrator, the respondents have neither sent a reply nor have they suggested any name for appointment of an arbitrator. Since there is a valid arbitral agreement between the parties and that there has been no consensus between the parties for appointment



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of an arbitrator, this Court will have to necessarily appoint an arbitrator.

Accordingly, this petition is allowed with the following directions:-

(a) This Court hereby appoints Mr.Kushal Kumar Sancheti, Enrol.No.78/93, having office at No.14, 2nd line beach road, Chennai-1, Mobile No.9444380117, as the sole arbitrator to adjudicate the dispute between the petitioner and the respondents arising out of the loan agreement dated 02.09.2021.

(b) The Sole Arbitrator appointed by this Court shall be paid remuneration as per the Fourth Schedule of the Arbitration and Conciliation Act, 1996.

(c) The Arbitrator shall adhere to the provisions of Arbitration and Conciliation Act, 1996.

(d) The Arbitrator shall also pass the arbitral award within the stipulated period as prescribed under the Arbitration and Conciliation Act, 1996.

(e) Both the parties shall share equally the fees payable to the Arbitrator.

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G.K.ILANTHIRAIYAN, J.

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