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Arb.O.P.(Com.Div.) No.286 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.09.2024

CORAM :

THE HONOURABLE MR.JUSTICE K. KUMARESH BABU

Arb.O.P.(Com.Div.) No.286 of 2024

Mrs.Lalitha Gopalakrishnan

... Petitioner

Vs.

Mr.A.Shankar

... Respondent

Prayer: Original Petition is filed under Section 11(6)(a)&(c) of the Arbitration and Conciliation Act, 1996 amended for appointment of the Arbitrator to appoint a sole arbitrator and to direct the arbitration proceedings in the matter of LOAN AGREEMENT dated 22.09.2023.

For Petitioner : M/s.Kiran Rani
for KNS Law Chambers.

For Respondent : Mr.A.Palaniappan

ORDER

This petition has been filed to appoint a sole arbitrator and to direct the arbitration proceedings in the matter of LOAN AGREEMENT dated 22.09.2023.



2. The learned counsel for the respondent placed reliance on the counter affidavit filed by the respondent and vehemently contended that there was no purpose or necessity for the respondent to enter into the loan transaction and that various other previous transaction has been suppressed by the petitioner. He would further contend, since there was no transfer of consideration under the loan agreement, the dispute does not fall within the ambit of Clause 7 of the alleged loan agreement and therefore prayed this Court to dismiss the present petition.

3. A loan agreement has been placed before this Court, in which the respondent is a signatory and the said loan agreement also contains a clause for Arbitration. The claim placed by the respondent are all the disputed question of fact, which can only be resolved in the Arbitration proceedings.

4. In the recent judgment of the Hon'ble Apex Court, it has been held that the such issues cannot be decided in a proceedings under Section 11 of the Arbitration Act and this Court had to look into the issue whether there is an Arbitration Agreement between the parties to resolve the dispute among themselves. When that be the case, this Court is unable to sustain the arguments of the learned counsel for the respondent.



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5. In fine, I am inclined to appoint **Mr.V.Nallasenapathy, Advocate Mobile No.98415-27190, No.15, Shanthi Nagar, Korattur, Chennai – 600050** as sole Arbitrator to enter upon the dispute between the parties. The learned Sole Arbitrator is entitled to fix his fees as per the Schedule-IV to the Act. This Court further requests the learned Sole Arbitrator to endeavour to decide the dispute as expeditiously as possible preferably within a period of six months from the date of completion of pleadings.

6. Accordingly, this arbitration petition is ordered.

03.09.2024

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation : Yes/No
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K. KUMARESH BABU, J.



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