



WEB COPY



Arb.O.P(Com.Div.) No.550 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.01.2024

CORAM :

THE HONOURABLE MR.JUSTICE C.SARAVANAN

Arb.O.P.(Com.Div.) No.550 of 2023

IndusInd Bank Limited,
Represented by its Authorised Representative
P.Vignesh Kumar

... Petitioner

Vs.

1.Karttik Mishra
2.Anita Mishra

... Respondents

Prayer: Original Petition is filed under Section 11(6)(a) and (c) of the Arbitration and Conciliation (Amendment) Act, 2015 read with Rule 2 of the Appointment of Arbitrators of Madras High Court Scheme, 1996, praying for appointment of a Sole Arbitrator to resolve the disputes between the petitioner and the respondents in terms of Clause 23 of the Loan Agreement No.OCL00846C dated 06.07.2018.

For Petitioner	: Mr.K.Moorthy
For Respondents	: No appearance

ORDER

The dispute between the petitioner and the respondents is arbitrable in terms of the Loan Agreement dated 06.07.2018.



2. Despite notice being taken out on the respondents, the respondents have failed to enter appearance either in person or through a counsel.

3. The first respondent is the borrower and the second respondent is the co-borrower who appeared to have defaulted in repaying the loan under the aforesaid Loan Agreement dated 06.07.2018. The petitioner has also issued notice under Section 21 of the Arbitration and Conciliation Act, 1996 to the respondents as early as 28.12.2022.

4. In fact, an Arbitrator was also appointed and he has recused himself based on the objections raised by the respondents.

5. Considering the fact that the respondents have failed to pay the loan amount under the Loan Agreement dated 06.07.2018 and have not participated in the procedure for appointment of Arbitrator, it has to be constructed that the respondents have forfeited their rights under the Loan Agreement.

6. Therefore, **Mr.Arun Kurian Joseph, Advocate, Enrollment No.1011/2002, having Office at No.21, Mahatma Gandhi Road, Nungambakkam Kothari Bagh, Chennai - 600 034, Mobile No.7299012344,**



is as an Arbitrator to enter upon reference and adjudicate/resolve the *inter se* dispute between the parties.

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

8. 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 petitioner shall pay the entire fee and other incidental charges to the Arbitrator and later recover the same from the respondents.



Arb.O.P(Com.Div.) No.550 of 2023

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

10. This Original Petition is allowed accordingly, leaving the parties to bear their own costs.

09.01.2024

Index : Yes/No

Internet : Yes/No

Speaking Order/Non-Speaking Order

Neutral Citation : Yes/No

arb



WEB COPY



Arb.O.P(Com.Div.) No.550 of 2023

C.SARAVANAN, J.

arb

Arb.O.P.(Com.Div.) No.550 of 2023

09.01.2024