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Arb.O.P (Com.Div.) No.77 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.02.2025

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THE HON'BLE Mr. JUSTICE ABDUL QUDDHOSE

Arb.O.P (Com.Div.) No.77 of 2024 and A.No.784 of 2024

1.M/s.Ramawat Logistics LLP,
represented by its partner
Mr.Jai Prakash Ramawat

2.Jai Prakash Ramawat

... Petitioners

Versus

1.M/s.Sundaram Finance Ltd.,
represented by its Authorised Officer

2.Babu Das Ramawat

3.Hemant Kumar

... Respondents

Prayer: Arbitration Original Petition (Commercial Division) filed under Section 34(2) of the Arbitration and Conciliation Act, 1996 to set aside the Arbitral Award dated 20.10.2023, Arbitration Case No.SSP-SF-1998 of 2022, passed by the Sole Arbitrator Dr.S.S.P.Darwesh in its entirety and to direct the respondents to pay the costs.



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For Petitioners : Mr.M.Sunil Kumar

For Respondents : Mr.M.Arunachalam

ORDER

This petition has been filed under Section 34 of the Arbitration and Conciliation Act, challenging the impugned Arbitral Award dated 20.10.2023.

2.The petitioner availed loan from the first respondent under a Loan Agreement. There arose dispute between the parties under the Loan Agreement. In the Loan Agreement, there exists an arbitration clause. As per the arbitration clause, the first respondent, who is the lender, is having a unilateral power to appoint an Arbitrator. By exercising the said power, the first respondent has appointed an Arbitrator unilaterally, who has passed the impugned Arbitral Award. Aggrieved by the unilateral appointment of an Arbitrator and aggrieved by the impugned Arbitral Award, the petitioner has filed this petition under Section 34 of the Arbitration and Conciliation Act challenging the impugned Arbitral Award.



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3.The law is now well settled by the decision rendered by the Hon'ble Supreme Court in the case of **Perkins Eastman Architects DPC and another vs. HSCC (India) Limited reported in (2020) 20 SCC 760**, wherein it has been categorically held that unilateral appointment of an Arbitrator by a party to the dispute is not permissible under law. Since the impugned Arbitral Award has been passed by the Arbitrator unilaterally appointed by the first respondent, without the consent of the petitioners, the impugned Arbitral Award has been passed in violation of the law laid down by the Hon'ble Supreme Court in **Perkins Eastman Architects DPC and another vs. HSCC (India) Limited reported in (2020) 20 SCC 760** judgment, referred to supra. The learned counsel for the first respondent fairly agrees to the settled position of law.

4.For the foregoing reasons, the impugned Arbitral Award has to be necessarily set aside by this Court as per the provisions of Section 34 of the Arbitration and Conciliation Act, 1996 as the impugned Arbitral Award suffers from patent illegality on account of the judgment rendered by the Hon'ble Supreme Court in **Perkins Eastman Architects DPC and another**



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vs. HSCC (India) Limited reported in (2020) 20 SCC 760, referred to
supra.

5.In the result, the impugned Arbitral Award dated 20.10.2023 is hereby set aside and this petition is allowed. The first respondent is granted liberty to initiate fresh arbitration against the petitioners and the remaining respondents in accordance with law. No costs. Consequently, connected application is closed.

12.02.2025

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