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Arb. O.P.(Com. Div.) No.138 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.06.2025

CORAM

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

Arb. O.P.(Com. Div.) No.138 of 2025

FIVE STAR BUSINESS FINANCE LIMITED ... Petitioner

Vs.

1. MOHD RAHMATH ALI
2. FOUZIYA BEGUM ... Respondents

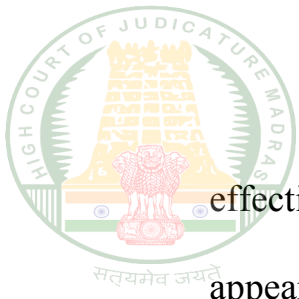
PRAYER: Petition filed under Section 11 of the Arbitration and Conciliation Act, 1996 to appoint a sole arbitrator to adjudicate the dispute between the petitioner and the respondents arising out of the loan agreement dated 14.09.2022 and to direct the respondents to pay the cost.

For Petitioner : Ms. Vinodhini Mathelene
for Mr. P.H. Vinodh Pandian

For Respondents : Set *ex-parte*

ORDER

As directed by this Court, the Registry has printed the name of the respondents in the cause list today. Through substituted service, the respondents have been served with the notice in this petition. Despite



effecting substituted service, the respondents have chosen not to enter appearance in this petition. Hence, the respondents are set *ex-parte* by this Court.

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

3. There seems to be a dispute between the petitioner and the respondents arising out of the Loan Agreement, dated 14.09.2022 as well as the Memorandum of Deposit of title deeds, dated 13.09.2022. There exists an arbitration clause in both the aforementioned contracts, which is extracted hereunder:

"ARTICLE 10: ARBITRATION

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" (Act 26 of 1996) or any other statutory amendments thereof and shall be referred to



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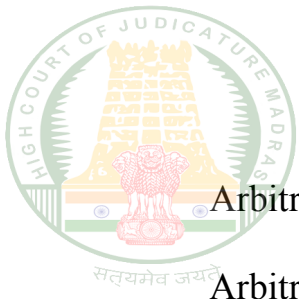


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the Sole Arbitration of an "Arbitrator", whose appointment shall be made mutually by the Parties. It is a term of this agreement that in the event of such an Arbitrator to whom the matter has been referred to originally dies or being unable or unwilling to act for any reason, then in such event, the Parties shall appoint a substitute sole arbitrator mutually. Such person, when appointed as Arbitrator, shall be entitled to proceed with the reference, from the stage at which it was left by his predecessor. The venue of the Arbitration proceedings shall be in Chennai."

4. The petitioner has invoked arbitration in accordance with the arbitration clause by issuing notice under Section 21 of the Arbitration and Conciliation Act, 1996 to the respondents on 04.12.2024. According to the petitioner, despite service of notice, the respondents have chosen not to reply to the arbitration invocation notice.

5. Since there is no consensus between the parties with regard to the name of the Arbitrator, this petition has been filed under Section 11 of the



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Arbitration and Conciliation Act, 1996 seeking for appointment of an Arbitrator. Since there exists an arbitration clause in the subject matter of the contracts and since the petitioner has complied with the requirements of Section 21 of the Arbitration and Conciliation Act, 1996 by issuing notice to the respondents on 04.12.2024, this Court has to necessarily appoint an arbitrator under Section 11 of the Arbitration and Conciliation Act, 1996.

6. Accordingly, this Arbitration Original Petition is allowed as prayed for by issuing the following directions:

(a) Mr.Advaidh Nelakanthan, Advocate, who is having office at No.36, 1st Floor, Kaaveri Villa, Indira Nagar, Adyar, Chennai - 600 020 (Mobile No.99620 23322) is appointed as the sole Arbitrator to decide the dispute between the petitioner and the respondents arising out of the loan agreement dated 14.09.2022;

(b) The Arbitrator shall be paid his remuneration / fees in accordance with the 4th schedule of the Arbitration and Conciliation Act, 1996 or as per the mutual consent of both the parties;

(c) Both the parties shall equally share the arbitrator's fees;

(d) The Arbitrator shall conduct the arbitration in accordance with the



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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 Order : Yes / No
Neutral Citation Case: Yes / No
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ABDUL QUDDHOSE. J.,

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