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Arb.O.P (Com.Div.) No.152 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.04.2025

CORAM

THE HON'BLE Mr. JUSTICE ABDUL QUDDHOSE

Arb.O.P (Com.Div.) No.152 of 2025

Five Star Business Finance Limited,
rep. by its Legal Officer
Madhu Sandhan Someswaran

... Petitioner

Versus

1.Yakub Pathan
2.Yasubh B.
3.Jarina Bee

... Respondents

Prayer: Arbitration Original Petition (Commercial Division) filed under Section 11(5) of the Arbitration and Conciliation Act, 1996 to appoint an Arbitrator to decide the disputes and differences between the petitioner and respondents in terms of Loan Agreement dated 18.06.2019.

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

For Respondents : Set exparte

ORDER



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As directed by this Court, the registry has printed the name of the respondents in the cause list today. All the respondents have now been duly served with the notice in this petition. Till date, the respondents remain un-represented. Hence, the respondents are set exparte by this Court.

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

3.There seems to be a dispute between the petitioner and the respondents arising out of the Loan Agreement dated 18.06.2019. The respondents have also deposited title deeds and have created mortgage through the Memorandum of Deposit of title deeds dated 18.06.2019. There exists an arbitration clause in the aforementioned loan agreement and the same 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



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any other statutory amendments thereof and shall be referred to the Sole Arbitration of an 'Arbitrator', appointed by the Managing Director of FSBF (or any other person as authorised by the Managing Director of FSBF) and such appointment shall be deemed to be the procedure, agreed upon by all the parties to this agreement. 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 Managing Director of FSBF for any other person as authorised by the Managing Director of FSBF) shall appoint another person to act as the Arbitrator. 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.

The Borrower(s) do hereby appoint FSBF, acting through any of its officers or representatives to submit for arbitration in respect of any dispute or matter relating to or in anywise touching the affairs of the Property/Properties or the Loan/ Loans. The Borrower(s) also undertake to acknowledge that the decision of the arbitrator shall be final.'

4.The petitioner has invoked arbitration in accordance with the arbitration clause by issuing notice to the respondents on 04.12.2024 to



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comply with the requirements of Section 21 of the Arbitration and Conciliation Act, 1996. No reply has been received by the petitioner for the same.

5.Since there exists an arbitration clause in the loan agreement, which is the subject matter of the dispute between the parties 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 and since there is no consensus between the parties with regard to the name of the Arbitrator, this Court will have to necessarily appoint an Arbitrator as prayed for in this petition.

6.For the foregoing reasons, this Arbitration Original Petition is allowed by issuing the following directions:

(a)This Court appoints Mr.S.Malar Mannan, Advocate, having address at No.74, New Law Chambers, High Court, Chennai, Mobile



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No.96006 33793 as the Sole Arbitrator to adjudicate the dispute between the petitioner and the respondents, arising out of the Loan Agreement dated 18.06.2019, on merits and in accordance with law;

(b)The Arbitrator shall be paid his remuneration/fees in accordance with the 4th Schedule of the Arbitration and Conciliation Act, 1996;

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

(d)The Arbitrator shall conduct the arbitration in accordance with the provisions of the Arbitration and Conciliation Act, 1996 and shall complete the arbitration within the specified time as prescribed under the said Act.

No costs.

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ABDUL QUDDHOSE, J.
vga

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