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Arb.O.P (Com.Div.) No.290 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.07.2025

CORAM

THE HON'BLE Mr. JUSTICE ABDUL QUDDHOSE

Arb.O.P (Com.Div.) No.290 of 2025

M/s.Indusind Bank Ltd.,
rep. by its Authorised Signatory

... Petitioner

Versus

1.Bhavith V.T.
2.Baby Thilakan

... Respondents

Prayer: Arbitration Original Petition (Commercial Division) filed under Section 11(6) of the Arbitration and Conciliation Act, 1996 to appoint a Sole Arbitrator to adjudicate the dispute arising under Loan Agreement No.ESS00184E dated 02.07.2016 between the petitioner and the respondents as per the Loan Agreement No.ESS00184E dated 02.07.2016 and to direct the respondents to pay the costs of this petition.

For Petitioner : Mr.D.Pradeep Kumar

For Respondents : Set exparte



ORDER

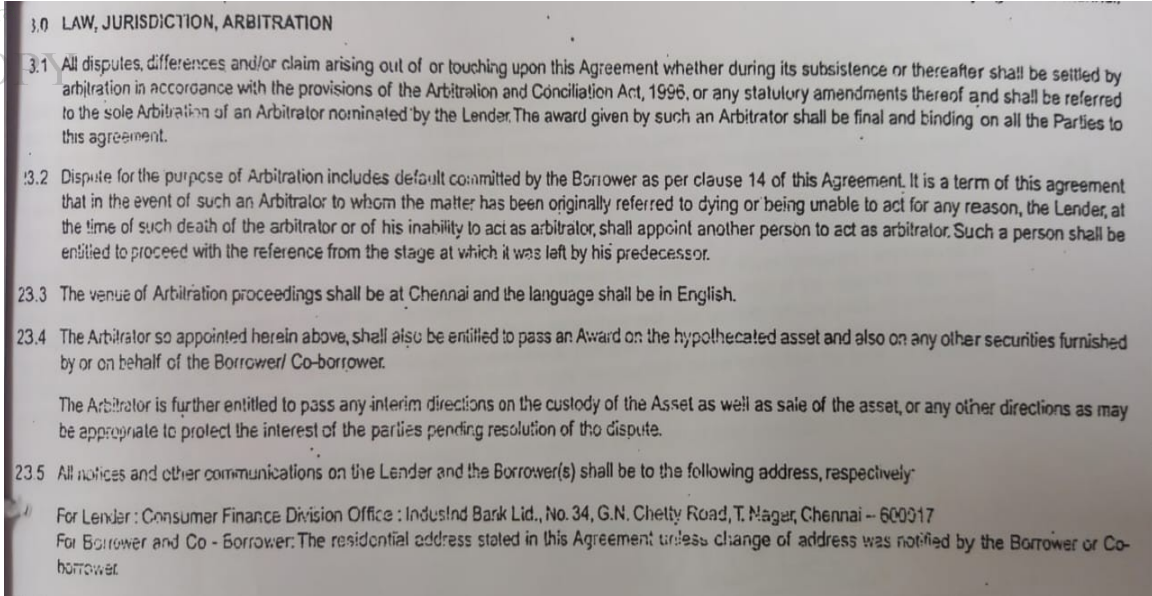
WEB COPY Notice sent to the first respondent has been returned with an endorsement 'unclaimed', which amounts to deemed service. Notice sent to the second respondent has been duly served. The returned cover as well as the acknowledgment card received from the respondents 1 and 2 respectively have been filed along with the affidavit of service. Since both the respondents have received the notice in this petition and the names are also printed in the cause list today, they are set exparte by this Court.

2.This petition has been filed under Section 11 of the Arbitration and Conciliation Act, seeking for 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 02.07.2016. The said agreement contains an arbitration clause and the same is extracted hereunder:



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4. The petitioner had earlier invoked arbitration in accordance with the arbitration clause by issuing notice to the respondents on 18.07.2018 to comply with the requirements of Section 21 of the Arbitration and Conciliation Act, 1996. An arbitrator was also appointed, who acted upon the reference and passed an arbitral award in favour of the petitioner against the respondents on 05.10.2018.

5. The petitioner had filed execution petition in E.P.No.302 of 2019 before the executing Court to execute the arbitral award dated 05.10.2018. However, the arbitral award dated 05.10.2018 could not be executed since



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the arbitrator was appointed unilaterally by the petitioner and in view of the same, by order dated 04.03.2024, the executing Court dismissed the execution petition filed by the petitioner in E.P.No.302 of 2019. In view of the order passed by the executing Court on 04.03.2024, the petitioner has been constrained to file this petition under Section 11 of the Arbitration and Conciliation Act, 1996, seeking for the appointment of an arbitrator by this Court.

6.Since there exists an arbitration clause in the contract, which is the subject matter of the dispute between the parties and since the petitioner has invoked arbitration in accordance with the arbitration clause by complying with the requirements of Section 21 of the Arbitration and Conciliation Act, 1996 and since the earlier arbitral award passed in favour of the petitioner against the respondents on 05.10.2018 could not be executed since the petitioner had appointed the arbitrator unilaterally and since there is no consensus between the parties with regard to the name of the arbitrator and since the respondents have been set exparte in this petition, this Court has to necessarily appoint an Arbitrator as prayed for in this petition.



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7.For the foregoing reasons, this Arbitration Original Petition is

allowed by issuing the following directions:

(a)This Court appoints Mr.V.Siva Subramanian, Retired District Judge, having address at No.1/349, Judges Avenue, Y.Pudupatti, Arumbanur (PO), Madurai East (TK), Madurai - 625 104, Mobile No.94430 15316 as the Sole Arbitrator to adjudicate the dispute between the petitioner and the respondents, arising out of the Loan Agreement dated 02.07.2016, 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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