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A.No.3632 of 2025
and Arb.O.P.(Com.Div.) No.16 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.07.2025

CORAM :

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

A.No.3632 of 2025
in
Arb.O.P.(Com.Div.) No.16 of 2025

1. Mr.R.Thyagarajan
2. Mr.S.Nainar

... Applicants

Vs.

M/s.New Link Overseas Finance Limited,
represented by its Director through by
Authorised Signatory Mr.P.Viswanathan,
Mamatha Complex, Second floor,
No.25, Whites Road, Royapettah,
Chennai – 600 014.

... Respondents

For Applicant : Mr.P.C.Harikumar

For Respondent : Mr.N.Premkumar

PRAYER: Application filed under Order XIV Rule 8 Original Side Rules read with Order IX Rule 13 of C.P.C. Read with Section 151 of C.P.C., praying set aside the ex-parte order dated 06.03.2025 made in Arb.O.P.(Com.Div.) No.16 of 2025 on the file of this Court.



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ORDER

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This application has been filed seeking to set aside the *ex-parte* order dated 06.03.2025 passed by this Court in Arb.O.P.(Com.Div.)No.16 of 2025.

2. As seen from the order, this Court has already appointed an Arbitrator to adjudicate the dispute between the parties. Only due to the fact that the counter was not filed by the applicants in this application, who are the respondents in Arb.O.P.(Com.Div.)No.16 of 2025, the applicants were set *ex-parte* by this Court. This Court has appointed the Arbitrator based on an arbitration clause, which is the subject matter of the dispute between the parties. The applicants have now contended through this application that there is no *locus standi* for the respondent in this application to initiate the arbitration against the applicants in view of the order passed by the National Company Law Tribunal, Chennai dated 13.12.2024.

3. The question of entertaining this application seeking to set aside the *ex-parte* order passed against the applicants in Arb.O.P.(Com.Div.)No.16 of 2025 through this Court order dated



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06.03.2025 does not arise. If such application is being entertained, the arbitration will get stalled. Having lost the opportunity to file counter in Arb.O.P.(Com.Div.)No.16 of 2025, the only relief that can be granted to the applicants in this application is to permit the applicants to file an application under Section 16 of the Arbitration and Conciliation Act, 1996 before the Arbitral Tribunal raising all contentions including the contentions that have been raised in this application.

4. For the foregoing reasons, this Court is of the considered view that this application is not maintainable and therefore, this application is disposed of by granting liberty to the applicant to file an application under Section 16 of the Arbitration and Conciliation Act, 1996 before the Arbitrator appointed by this Court in Arb.O.P.(Com.Div.)No.16 of 2025 dated 06.03.2025 and if such an application is filed, the Arbitrator shall deal with the same on its own merits and in accordance with law.

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ABDUL QUDDHOSE, J.

mp

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