



Arb.O.P.(Comm.Div.) No.532 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on: 20.12.2024

Pronounced on: 03.01.2025

CORAM

THE HONOURABLE **MR.JUSTICE P.B.BALAJI**

Arb.O.P.(Comm.Div.) No.532 of 2024
and OA. No.437 of 2024

Samunnati Financial Intermediation &
Services Private Limited,
Represented by its Head Legal and
General Legal Counsel,
Dr.S.Vasudevan,
Having office at Baid Hi Tech Park,
8th Floor, No.129 B East Coast Road,
Thiruvanmiyur, Chennai -600 041.

... Petitioner

vs.

1.M/s.KNR Marine Exports,
No.10, 4th Floor, kanakapura Mani Road,
Above HDFC Bank, Yelachanahalli,
Bengaluru – 560 062.

2.Mr.Nagaraj Shetty

3.Ms.Rahamath Unnisa

... Respondents



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PRAYER: Arbitration Original Petition filed under Sections 11 (6) of the Arbitration and Conciliation Act, 1996 to appoint an arbitrator to adjudicate the dispute between the petitioner and the respondents in terms of the term loan agreement dated 06.09.2021.

For Petitioner : Mr.Akash Srinanda for
Mr.Vaibhav R.Venkatesh

For Respondents : No Appearance.

ORDER

This Arbitration Original Petition has been filed under Section 11(6) of the Arbitration and Conciliation Act, 1996 (hereinafter called as 'the Act') to appoint an Arbitrator in respect of the dispute arising out of alleged violation of the Term Loan Agreement dated 06.09.2021 between the petitioner and the respondents.

2. I have heard Mr.Akash Srinanda for Mr.Vaibhav R.Venkatesh, learned counsel for the petitioner. Though Court notice remains unserved, private notice served on the respondents and the name of all the respondents



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have been printed in the High Court daily cause-list on 20.12.2024, there is no appearance on the side of the respondents. Therefore, the respondents are hereby set exparte.

3. I have proceeded to hear the learned counsel for the petitioner Mr.Akash Srinanda for Mr.Vaibhav R.Venkatesh and also perused the records.

4. The case of the petitioner is that the Applicant Company is a Non-Banking Finance Company and the first respondent herein had availed loans from the Petitioner and failed to repay the dues of monies even after repeated reminders. The petitioner herein had enhanced the credit facility to a sum of Rs.2,36,00,000/- to the 1st respondent vide sanction letter dated 31.08.2021. The first respondent represented through the 2nd and 3rd respondents. They had executed various documents in favour of the petitioner including Term Loan Agreement dated 06.09.2021. It is pertinent to mention that as per the said Term Loan Agreement, the respondents



herein are liable to repay the said loan amount within 24 months including interest at the rate of 21% per annum. Due to the non-payment of the loan amount to the petitioner, a dispute exists between the parties which requires to be adjudicated by a sole Arbitrator as per the Clause 15 of the Term Loan Agreement dated 06.09.2021. The relevant portion of Clause 15 of the Agreement is set out below:-

“15. GOVERNING LAW AND JURISDICTION:

15.1. This Agreement shall be governed by, and construed and interpreted in accordance with, the laws of the Republic of India. Any dispute, controversy or claim arising out of or relating to the interpretation, application or performance of this Agreement, including its existence, validity or termination, shall be subject to the jurisdiction of the courts in Chennai, Tamilnadu.

15.2 All disputes, differences or claims of any kind whatsoever arising between the parties hereto, out of or in connection with this Agreement, or the validity, interpretation, implementation or alleged breach of terms of this Agreement or omitted to be done pursuant to this Agreement, shall be first attempted to be resolved amicably between the parties by mutual negotiations within 30 (thirty) days of commencement of negotiations. Failing which, such dispute shall be referred to a sole arbitrator to be appointed by Samunnati. The Arbitration proceedings shall be in accordance with the Arbitration and Conciliation Act, 1996, and shall be conducted in English. The Arbitration shall take place at Chennai and shall be governed by the laws of India.

15.3 Nothing contained herein shall limit that right of Samunnati to initiate any proceedings in any court or tribunal of competent jurisdiction, nor shall the taking of Proceedings in one or more jurisdictions preclude the taking of Proceedings in any other



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jurisdiction whether concurrently or not".

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5. When disputes arose between the parties, the petitioner issued a Demand Notice on 26.09.2022 to the respondents to make the payment of outstanding loan amount, the same was received by the third respondent. Notice sent to the 1st respondent has got returned with an endorsement “Addressee Left” and also 2nd respondent has refused to receive the notice and the same was returned. There is no response from the respondents. Thereafter, the above Arbitration Original Petition has been filed. Even before this Court, the respondents have not chosen to appear despite attempts made by the petitioner to serve notice.

6. The Term Loan Agreement provides for an Arbitration Clause in 15 and the petitioner has also rightly invoked Section 21 of the Arbitration and Conciliation Act, 1996 for issuance of notice to the respondents. Therefore, petitioner is entitled to seeking an appointment of sole arbitrator to adjudicate the disputes between the petitioner and the respondents in



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terms of the said Agreement.

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7. In view of the foregoing discussions, I am inclined to appoint **Mr.Justice.S.Vaidyanathan, Chief Justice (Retired), Meghalaya High Court, having address at Door No.2A, 2nd Floor, River Dale Apartments, 14/27, 2nd Avenue, Harrington Road, Chetpet, Chennai, Tamil Nadu 600 031, Cell:9840517862, E.Mail:ravago1991@gmail.com,** as the Sole Arbitrator. The sole Arbitrator is directed to enter upon reference and adjudicate the dispute in accordance with law.

8. With regard to the Original Application No.437 of 2024, which has been filed under Section 9 of the Act, interim injunction granted by this Court on 03.07.2024 shall stand extended by eight weeks. In the meantime, the said Application shall be converted as an Application under Section 17 of the Act and the Arbitrator shall decide the same in accordance with law, after affording opportunity to both the parties. The learned counsel for the petitioner is directed to communicate the said appointment to the learned



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Arbitrator to expedite the proceedings.

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9. The learned Arbitrator is entitled to fix his fees as per the Schedule-IV to the Act. This Court further requests the learned Arbitrator to endeavor to decide the dispute as expeditiously as possible, however, not later than six (6) months from the date of his entering into reference.

10. Accordingly, this Arbitration Original Petition is allowed.

03.01.2025

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Index : Yes / No

Internet : Yes / No



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P.B.BALAJI, J.,

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