



Arb O.P(COM.DIV.) NO. 560 of 2024

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.01.2025

CORAM

THE HONOURABLE MR JUSTICE P.B. BALAJI

Arb.O.P (COM.DIV.) No.560 of 2024

Jitesh Kumar Kochar

...Petitioner

Vs

1.Mrs.Syed Safia

2.Mr.Adhilhassan

3.Ms.Sahana

...Respondents

PRAYER: The Arbitration Original Petition is filed under Section 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 Mortgage by Deposit of Title Deeds dated 04.09.2012 and direct the respondents to pay costs.

For Petitioner : Mr.Anirudh A.Sriram

For Respondent : No Appearance



Arb O.P(COM.DIV.) NO. 560 of 2024

WEB COPY

ORDER

This Arbitration Original Petition has been filed under Section 11(6) of the Arbitration and Conciliation Act, 1996 to appoint an Arbitrator to decide the disputes and differences between the petitioner and the respondents in terms of the Mortgage by Deposit of Title Deeds dated 04.09.2012.

2. Heard Mr. Anirudh A. Sriram, learned counsel appearing for the petitioner. Despite service of notice on the respondents and names of the respondents being printed in the cause list today (21.01.2025), the respondents have not chosen to enter appearance either in person or through counsel. I have also gone through the records including the mortgage deed which contain arbitration agreement between the parties.

3. It is the case of the petitioner is that the petitioner has lent a sum of Rs.30,00,000/-, in and by a deed of equitable mortgage deposit dated 04.09.2012 which was undertaken by the first respondent to be repaid



Arb O.P(COM.DIV.) NO. 560 of 2024

WEB COPY

together with interest at the rate of 24% per annum. It is also the case of the petitioner that the first respondent had deposited the original sale deeds besides also Patta and two security Cheques. At the request of the first respondent citing that her husband had passed away and various other family issues, the petitioner extended the time for payment from time to time. According to the petitioner, as on 20.04.2023, the amount outstanding about Rs.1,05,00,000/- which was also undertaken by the first respondent to be repaid on or before 31.03.2024. The grievance of the petitioner is that the first respondent did not come forward to make any payment and a letter was issued by the petitioner on 23.07.2024 calling upon the petitioner to pay the entire dues within seven days. Clause 11 of the said Mortgage by Deposit of Title Deeds dated 04.09.2012 provides for dispute resolution through the Arbitration.

4. I have gone through the said Arbitration agreement and I am satisfied with the existence of the Arbitration clause. The petitioner has included the second and third respondents who are the children of the first respondent and deceased viz., Ubaitullah and according to the petitioner,



Arb O.P(COM.DIV.) NO. 560 of 2024

WEB COPY

the legal heirs are also jointly and severally liable to pay the amount due and payable to the petitioner. Admittedly, I do not find the respondents 2 and 3 being parties to the mortgage by deposit of title deeds. However, none of the respondents come forward to contest the petitioner and I am therefore leaving the issue before the learned Arbitrator who is appointed by this Court to go into the issue of whether respondents 2 and 3 are also bound by the terms of the Mortgage by Deposit of Title Deeds dated 04.09.2012 and consequently, paying jointly and severally to meet the scheme of the petitioner arising Mortgage by Deposit of Title Deeds dated 04.09.2012.

5.In view of the above, I am proceeding to appoint a sole Arbitrator viz., **Dr.T.Ramasamy, Arbitrator, having office at 'VADIVALAYAM', 27 (New No.16), Loganathan Nagar II Street, (Near Arumbakkam Metro Railway Station on 100 Feet Road), Choolaimedu, Chennai - 600 094, Mobile: 94440 12425/89250 31303, E.mail: drlawful@gmail.com** as the Sole Arbitrator. The sole Arbitrator is directed to issue notice to the respondents and thereafter, decide the disputes and adjudicate the



Arb O.P(COM.DIV.) NO. 560 of 2024

WEB COM differences between the parties.

6.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.

7. Accordingly, this Arbitration Original Petition is allowed.

21.01.2025

rkp

Index : Yes / No

Internet : Yes / No



WEB COPY



Arb O.P(COM.DIV.) NO. 560 of 2024

P.B.BALAJI.J.

ata

Arb.O.P (COM.DIV.) No.560 of 2024

21.01.2025