



IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED: 12.03.2026**

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**THE HON'BLE MR JUSTICE SENTHILKUMAR RAMAMOORTHY**

**Arb O.P(COM.DIV.) No. 213 of 2026**

Tata Capital Limited  
(Formerly known as  
Tata Capital Financial Services Ltd.,)  
Registered Office at 11th Floor, Tower A,  
Peninsula Business Park, Ganpatrao Kadam Marg,  
Lower Parel, Mumbai - 400 013, Maharashtra.  
Branch Office at Centennial Squares, 1st floor,  
No.6A, Dr.Ambedkar Salai,  
Kodambakkam, Chennai - 600 024.  
Represented by its Authorized Signatory  
Ramkumar

..Petitioner(s)

Vs

1. Nihar Hospitality Private Limited,  
Office No.328, 329, 3<sup>rd</sup> Floor, Abhishek  
Complex, Juna Padra Road, Vadodara,  
Gujarat, Pincode 390020.
2. Mr.Ashok Kumar S.Saluja,  
S/o.Mr.Sant Lal Saluja,  
Office No.328, 329, 3<sup>rd</sup> Floor, Abhishek  
Complex, Juna Padra Road, Vadodara,  
Gujarat, Pincode 390020.

Also at  
Tower B-201, 202, Samanvay Sparash, M I  
Estate, Vadasar Road, Vadodara,  
Gujarat 390010

3. Mrs.Neha Saluja,  
Office No.328, 329, 3<sup>rd</sup> Floor, Abhishek



Complex, Juna Padra Road, Vadodara,  
Gujarat, Pincode 390020.

Also at  
Tower B-201, 202, Samanvay Sparash, M I  
Estate, Vadasar Road, Vadodara,  
Gujarat 390010

..Respondent(s)

**PRAYER:** Arbitration Original Petition (Commercial Division) is filed under Section 11(5) & (6) of the Arbitration and Conciliation Act, 1996, pleaded to appoint a Sole Arbitrator to adjudicate the differences and disputes between the petitioner and the respondents under the Loan Agreement dated 17.07.2025 Bearing Reference Number TCFBL0202000013907728.

For Petitioner(s): Mr.P.Suresh

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### **ORDER**

After issuing notice dated 08.01.2026 invoking clause 9 of the agreement for business loan between the parties, the present petition has been filed under Section 11(5) of the Arbitration and Conciliation Act, 1996 (the A & C Act).

2. The arbitration clause between the parties reads as under:

***“9. Arbitration***



*If any dispute, difference or claim arises between any of the Obligors and the Lender in connection with the Facility or as to the interpretation, validity, implementation or effect of the Facility Documents or as to the rights and liabilities of the parties under the Facility Documents or alleged breach of the Facility Documents or anything done or omitted to be done pursuant to the Facility Documents, the same shall be settled by arbitration by a sole arbitrator to be appointed by any of the following institutions:*

*(a) The Council for National and International Commercial Arbitration having its office at Unit No.208, 2nd Floor, Beta Wing, Raheja Towers, Nos.113-134, Anna Salai, Chennai – 600002.*

*(b) Centre for Online Resolution of Disputes having its office at F-14, 3rd Cross, Manyata Residency, Manyata Tech Park, Bengaluru 560045.*

*(c) The Centre for Alternative Dispute Resolution Excellence having its office at 107C, Mulberry Woods, Janatha Colony, Carmelaram Station Road, Doddakanneli, Bengaluru – 560035.*

*(d) ADR E-Sarvatra Private Limited having its office at 63, Palace Road, Vasanth Nagar, Bengaluru – 560052.*

*(e) Madras Alternate Dispute Resolution Centre (MADRC), having its office at C-40, 2nd floor, 2nd Avenue, Anna Nagar West, Chennai-600 040.*

*(f) Lex Carta Private Limited (Just Act), having its office at T4, 7th Street, Dr VSI Estate Phase 2, Thiruvanniyur,*



Chennai, Tamil Nadu – 600 041.

(g) *The Madras Chamber of Commerce & Industry (MCCI), having its office at "Karumuttu Center", 1st Floor, 634, Anna Salai, Chennai-600 035.*

(h) *Any arbitral institution designated under the provisions of the Arbitration or Conciliation Act, 1996 ("the Act) or any panel of arbitrator maintained under the provisions of that Act;*

*hereinafter referred to as ("Institution") in accordance with the rules of the Institution as prevailing and as amended from time to time.*

*The arbitration proceedings shall be based on documents only which shall be conducted through exchange of e-mail and/or any other mode of electronic communication as permitted by the rules of the Institution or through an online dispute resolution by the web portal offered by the Institution. The parties hereby agree that the arbitral proceeding shall be conducted in electronic mode and all pleadings and documents will be exchanged electronically. There shall be no in-person and/or oral hearings except in certain exceptional circumstances as the sole arbitrator may deem fit upon the request of either of the parties. In such instances, the hearings shall be conducted virtually at the sole discretion of the*



*arbitrator. The seat of arbitration for all purposes shall be deemed to be such place as mentioned in Annexure I of the Agreement. The language of arbitral proceedings shall be English.*

*In the event the arbitrator to whom the matter is originally referred, resigns or dies or is unable to act for any reason, the Institution shall appoint another person in his/her place to act as arbitrator/who shall proceed with the reference from the stage at which it was left by his/her predecessor.*

*The arbitrator so appointed shall have the power to pass an award and also to pass interim orders/directions as may be appropriate to protect the interest of the parties pending resolution of the dispute. A certified copy of the award passed by the arbitrator, a digitally signed copy of the same or a scan copy of the same shall be sent to the parties through e-mail or any other electronic mode including the web portal as the Institution deems fit which shall be considered as a signed copy.*

*All notices, processes and communications between the parties with respect to the arbitration proceedings shall be through e-mail or another mode of communication permitted by the Institution notwithstanding the notice clause contained*



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*in the Agreement which shall continue to apply to all other communications between the parties.*

*It shall be the responsibility of the Lender and Obligor(s) to maintain sufficient space in the e-mail account and/or in any other mode of electronic account(s) and also to have supporting applications / software in their computer / mobile / any other electronic device to access the electronic documents sent to them. It shall also be the responsibility of the Lender and Obligor(s) to save the emails in the address book. The delivery of emails to spam, promotion, etc., shall also be a deemed delivery.*

*The courts at such place as mentioned in Annexure I of the Agreement shall have exclusive jurisdiction in respect of matters arising hereunder including any petition for appointment of an arbitrator under Section 11 of the Arbitration and Conciliation Act, 1996 / application for setting aside the award/appeal and the Lender/Obligor(s) shall not object to such jurisdiction. The arbitration shall be conducted under the provisions of the Arbitration and Conciliation Act, 1996 together with its amendments, any statutory modifications or re-enactment thereof for the time being in force. The award of the arbitrator shall be final and binding on all parties concerned. The cost of arbitration shall*



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*be borne by the Borrower. ”*

Upon a dispute arising between the parties, the petitioner issued notice dated 08.01.2026 specifying the list of institutions authorised to appoint the arbitrator under the contract. The petitioner also called upon the respondents to select one of the institutions for purposes of making such appointment. Because the respondents did not respond to the notice, the present petition has been filed.

3. Under Section 11(2) of the A & C Act, the parties are free to agree on a procedure for appointing the arbitrator. As per sub-section (6) of Section 11, if a party or institution fails to perform a function entrusted under the agreement appointment procedure, the person aggrieved is entitled to approach this Court.

4. In the case at hand, it is evident from the arbitration clause that there is an agreed appointment procedure. Therefore, the petitioner should have requested one of the institutions mentioned in clause 9 to make the appointment. Upon failure by such institution to make the appointment, the petitioner would be entitled to approach this Court.



5. Because the petitioner has approached this Court prematurely without adhering to the procedure prescribed in the contract, this petition is disposed of by leaving it open to the petitioner to re-apply if appointment cannot be made in

accordance with the agreed appointment procedure in spite of the petitioner making necessary efforts in that regard. There will be no order as to costs.

**12.03.2026**

Index: Yes/No  
Speaking/Non-speaking order  
Neutral Citation: Yes/No  
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**SENTHILKUMAR RAMAMOORTHY, J.**

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