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Arb Appeal No. 37 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20-01-2026

CORAM

THE HON'BLE MR JUSTICE C.V. KARTHIKEYAN

AND

THE HON'BLE MR.JUSTICE K.KUMARESH BABU

Arb Appeal No. 37 of 2025

and

C.M.P. Nos.22720 & 22721 of 2025

N. Rajagopal

..Petitioner(s)

Vs

M/s. Shriram Transport,
Finance Co. Ltd.
Rep by its authorised representative,
Mr.P.Jayakumar.
Registered office at:
No. 14A, South Phase, Industrial Estate,
Guindy, Chennai 32,
Branch office at:
No. 5/9-3, 1st Floor, Navanithi Towers,
Suramangalam Main Road,
Salem District - 636 005

..Respondent(s)

This Appeal filed under Section 37 of the Arbitration and Conciliation Act, 1996 r/w Section 13 of the Commercial Courts Act, 2015 praying to set aside the impugned fair and decreetal order dated 01.08.2025 in Arb.O.P No.2 of 2025 passed by the learned District Judge Commercial Court, Salem.

For Petitioner(s):

Mr.J.B.Aadeish

For Respondent(s):

Mr.M.Peer Mohammed



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JUDGMENT

(Judgment of the Court was delivered by C.V.Karthikeyan J.)

The Appeal had been filed by the respondent in Arbitration Case No.134 of 2020, which arbitration proceedings had been initiated consequent to Hypothecation cum Loan Agreement dated 01.12.2018 entered into between the appellant and the respondent herein. The said agreement had been entered into for offering loan for the purchase of vehicle viz., Swift Dzire VDI Diesel 5 Seater bearing Registration No.TN-30-BT-3465 for a total sum of Rs.5,68,000/-. The agreement provided resolution of disputes through arbitration under Article 22, which is as follows:

ARTICLE 22

LAW, JURISDICTION, ARBITRATION

22(a).All disputes, differences, and / or claim arising out of or in connection with this Agreement whether during its subsistence or thereafter shall be settled by arbitration in accordance with the provision of the Arbitration and Conciliation Act, 1996, or any statutory amendments thereof and shall be referred to the sole arbitration of an Arbitrator nominated by the Lender. The award given by such an Arbitrator shall be final and binding on the parties to this Agreement.



In the event of incapacity or resignation or death of the sole arbitrator so appointed, the Lender shall be entitled to appoint another arbitrator in place of the earlier arbitrator, and the proceedings shall continue from the stage at which the predecessor had left. Such a person shall be entitled to proceed with the reference from the stage at which it was left by his predecessor. Such a person shall be entitled to proceed with the reference from the stage at which it was left by his predecessor.

(b).The venue of arbitration proceedings shall be at Salem. The language of arbitration shall be English.

(c).The arbitrator so appointed herein above, shall also be entitled to pass an Award on the hypothecated asset and also on any other securities furnished by or on behalf of the Borrower. ”

2.A perusal of the said article shows that, any disputes, in connection with agreement, should be settled by arbitration, in accordance with the provision of the Arbitration and Conciliation Act, 1996 and shall be referred to a sole arbitrator nominated by the vendor.

3.In the appeal, the point urged is that the respondent herein had appointed an arbitrator, unilaterally, without taking the appellant into confidence or without issuing notice to the appellant about referring the issues to the arbitration or the decision to nominate an arbitrator or indicating the name of the arbitrator.



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4.The Hon'ble Supreme Court in *(2020) 14 SCC 712, Central Organization for Railway Electrification Vs. M/s.ECI-SPIC-SMO-MCML (JV) A Joint Venture Company*, had held that any arbitrator appointed should be only with the consent of both parties and there cannot be unilateral appointment of an arbitrator. It is thus clear that the entire arbitration proceedings stand vitiated and are therefore set aside.

5.We would allow the appeal and set aside the order dated 01.08.2025 in Arbitration O.P.No.2 of 2025 passed by the District Court, Commercial Court, Salem, without entering into any discussion on the merits raised in the grounds of appeal and leave that issue open to be examined in a fresh arbitration proceedings. We also set aside the award dated 09.04.2021 passed by the arbitrator. The matter is to be heard afresh. Mr. N.Vijayakanth, II Additional Judge (Retired), Plot No.776, 1st Cross Street, Kagitha Puram, 4th Street, Kovilambakkam, Chennai – 600 117, Mobile No: 94428 65577, is appointed as an arbitrator to enter into reference on the disputes between the parties and to pass an order in manner known to law. The fees and remuneration should be in accordance with the Schedule-IV of the Arbitration and Conciliation Act, 1996.



6. In the result, the Arbitration Appeal stands allowed. No costs.

Consequently, connected Civil Miscellaneous Petitions are closed.

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(C.V.K.,J.) (K.B.,J.)
20-01-2026

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

smv



To

M/s. Shriram Transport,
Finance Co. Ltd.

Rep by its authorised representative, Mr.P.Jayakumar.

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**C.V.KARTHIKEYAN, J.
AND
K.KUMARESH BABU, J.**

SMV

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