

**In the High Court of Judicature at Madras**

**Dated : 31.07.2015**

**Coram :**

**The Hon'ble Mr.Sanjay Kishan Kaul, Chief Justice**

**O.P.No.189 of 2014**

M/s.Gemini Industries & Imaging Pvt. Ltd.,  
Rep. by its Manager-Legal & Authorised  
Signatory, Mr.C.S.Ganesan.

.. Petitioner

-VS-

1.M/s.ARS Movies Pvt. Ltd.  
Rep. by its Chairman and Managing  
Director, Mr.K.T.Kunjumon.

2.K.T.Kunjumon

.. Respondents

Petition filed under Section 11 (5) of the Arbitration and Conciliation Act, 1996, to appoint a Sole Arbitrator to resolve the dispute between the petitioner and the respondents under the provisions of the Act and as per clause (6) of the agreement dated 21.08.2008.

For Petitioner : M/s.R.Maheswari

For Respondents : Mr.S.Kothandaraman

\* \* \* \* \*

**ORDER**

The present petition under Section 11(5) of the Arbitration and Conciliation Act, 1996, emanates from an agreement dated 21.08.2008 executed between the petitioner and the first respondent whereby the

petitioner had agreed to make available a sum of Rs.4 crores towards the budget in respect of a film "Kadhalukku Maranamillai". The agreement contains an arbitration clause 6, which reads as under:

**"6.ARBITRATION**

Any and all disputes and differences that may arise between the Parties, pursuant to the terms of this Agreement, or its interpretation hereof, shall be referred to the arbitration of a sole Arbitrator to be mutually appointed by the Parties hereto, failing which to three (3) arbitrators, one nominated by the Producer, the other by "GILL" and the third chosen by the two (2) arbitrators so nominated by the Parties. The said Arbitration shall be conducted in accordance with the Arbitration and Conciliation Act, 1996. The award of the arbitration proceedings will be final and binding on both Parties to the Agreement. The venue of the Arbitration shall be "GILL". The Arbitration proceedings shall be conducted in English."

2.Disputes have arisen out of the agreement, which resulted in the arbitration clause being invoked through a legal notice dated 06.12.2013 by the petitioner appointing its nominee Arbitrator. No reply is stated to have been sent to the same necessitating the present petition.

3.No reply has been filed to the petition, despite service having been completed on 17.12.2014 and thus, it is a case of no return.

4.The aforesaid show that there is a written agreement inter se the parties containing the arbitration clause, disputes have arisen inter se the parties and the jurisdiction being of this Court. However, both the learned counsel for parties state that instead of having an arbitration by a panel of three arbitrators, a Sole Arbitrator be appointed by this Court.

5.Thus, by consent of the learned counsel for parties, I appoint Mr.Justice P.P.S.Janarthana Raja, a retired Judge of this Court, as the Sole Arbitrator to enter upon the reference and adjudicate the dispute inter se the parties. As requested by the learned counsel for the parties, the arbitration proceedings will be conducted under the aegis of the Madras High Court Arbitration Centre and the parties will be governed by the Rules of the Centre.

6.The original petition is, accordingly, allowed, leaving the parties to bear their own costs.

(S.K.K., CJ.)  
31.07.2015

sra

The Hon'ble Chief Justice

(sra)

Note: Mark a copy to

(i) The Addl. Registrar-Vigilance  
Madras High Court Arbitration Centre,  
Madras High Court Campus, Chennai.

(ii) The Arbitrator, as referred above.

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