

In the High Court of Judicature at Madras

Dated : 03.07.2015

Coram :

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

O.P.No.673 of 2011

1.Rakhi Deepak
2.Valsala Rajendran

.. Petitioners

-VS-

M/s.A.K.R.Holding Private Limited,
rep. by the Director A.M.Farook,
No.59, M.K.N. Road,
Guindy,
Chennai-600 032.

.. Respondent

Petition filed under Section 11 (6) of the Arbitration and Conciliation Act, 1996, to appoint a Sole Arbitrator to adjudicate the dispute between the petitioner and the respondent with regard to the resolving the dispute arise under Share Purchase Agreement dated 26.5.2010 and supplementary Agreement dated 09.11.2010.

For Petitioners : Mr.T.A.Srinivasen

For Respondent : Mr.R.Subramaniam

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ORDER

The petitioners claim to be the major shareholders of the respondent Company M/s.A.K.R.Holding Private Limited, Guindy, Chennai having been allotted 13,22,760 equity shares each of Rs.10/- per petitioner, which constitutes to 60.38% shareholding of that Company. The respondent Company is stated to have expressed interest to acquire the shareholding for a lumpsum consideration of Rs.3,00,00,000/- through the issuance of post-dated cheques and thus, the Share Purchase Agreement dated 26.5.2010 was entered into. However, the respondent is stated to have failed to meet its obligations, except payment of Rs.90,00,000/-. This necessitated a Supplementary Agreement to be executed on 09.11.2010, setting out the schedule of payments. Some further monies were paid and the total amounts stated to have been paid to the petitioners is Rs.1.50 crores, leaving the balance of the same amount. The cheques issued for the balance amount are stated to have been dishonoured and despite legal notice, payments were not made.

2. The Share Purchase Agreement provided for resolution of the disputes through an arbitration and the relevant Clause 16 thereof reads as under:-

"The parties agree to resolve all disputes

and differences arising under the agreement or relating thereto to an arbitral tribunal consisting of a sole arbitrator notwithstanding a cancellation of this agreement under clause 13 of this agreement. The venue of the arbitration proceedings shall be at Chennai and the language of the proceeding shall be in English."

The petitioner ultimately invoked the aforesaid arbitration Clause.

3. We may notice that Clause 10 of the Supplementary Agreement dated 09.11.2010 stipulates that all the terms and conditions of the Original Agreement would apply.

4. The respondent was served with the notice, but no reply has been filed. The learned counsel appearing for the respondent states that the bundle was taken from him in the year 2012 itself by the respondent. However, no fresh vakalat has been filed. Thus, the respondent has taken no steps to defend itself in the present proceedings and thus, the allegations in the petition go unrebutted.

5. In view of the disputes having arisen inter se the parties arising from the Share Purchase Agreement dated 26.5.2010 and the Supplementary Agreement dated 09.11.2010, there being an arbitration

Clause and the jurisdiction being of Chennai, the disputes inter se the parties are liable to be referred to the arbitration through the Sole Arbitrator as stipulated.

6. I, thus, appoint **Mr.Justice R.S.Ramanathan**, a retired Judge of this Court as the Sole Arbitrator to enter upon the reference and adjudicate the disputes inter se the parties. At request of the learned counsel for the petitioners, the arbitration proceedings will be conducted under the aegis of Madras High Court Arbitration Centre and the parties will be governed by the Rules of the Madras High Court Arbitration Centre (MHCAC) (Arbitration Proceedings) & (Administrative Cost and Arbitrators' Fees) Rules, 2014.

7. The Original Petition is accordingly allowed, leaving the parties to bear their own costs.

(S.K.K., CJ.)
03.07.2015

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Index : Yes/No
Internet : Yes/No

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.

The Hon'ble Chief Justice

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