

In the High Court of Judicature at Madras

Dated : 08.01.2016

Coram :

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

O.P.No.887 of 2015

V.Lakshminarayanawami
Proprietor, M/s.Suguna Aviation Academy,
Coimbatore. ... Petitioner

-vs-

1.International Aviation Academy Private
Limited, 3rd Floor, Jai Durga Complex,
60, 1st Avenue, Ashok Nagar,
Chennai, Rep. by its Authorised Signatory.
2.K.C.Samuel
Chairman, Hindustan Aviation Academy,
Bangalore. ... Respondents

Petition filed under Section 11 (6) of the
Arbitration and Conciliation Act, 1996, to appoint a Sole
Arbitrator in terms of Clause 14 of the Memorandum of
Understanding dated 15.05.2013 to resolve the disputes
between parties, in accordance with the Act.

For Petitioner : Mr.Karthik Seshadri

For Respondents : Mr.L.Swaminathan for R-1
: Mr.S.Kadarkarai, for R-2

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O R D E R

The first respondent as the principal borrower and

the second respondent as the guarantor are parties to the agreement with the petitioner in the form of a Memorandum of Understanding dated 15.05.2013, which contains the following arbitration clause no.14:

'14.All the disputes arising out of this agreement shall be referred to an Arbitrator whose decision shall be binding on both the parties.'

2.The aforesaid clause is not disputed nor the jurisdiction of this Court. It is also not in question that disputes have arisen inter se the parties. The only plea advanced by the second respondent is that in view of the word *'both'* used in the aforesaid clause 14, the arbitration ought to take place only between the petitioner and the first respondent. Apart from this, the defence of both the first and second respondents is denial of claim of the petitioner.

3.It is agreed that the aforesaid issue qua respondent no.2 be also examined by the Arbitrator to be appointed by this Court, in view of the fact that for all other practical purposes, the disputes have to be resolved by agreement through arbitration.

4.Thus, I appoint **M/s.K.Elaiyarani, a retired Judicial Officer,** as the Sole Arbitrator to enter upon the

reference and adjudicate the disputes inter se the parties. As requested by the learned counsel for 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.

5.The original petition is, accordingly, disposed of, leaving the parties to bear their own costs.

Sd/. (S.K.K., CJ.)
08.01.2016

//Certified to be a true copy//

Dated this the day of 2016

R.s/09.03.2016

COURT OFFICER

From 25.09.2008 the Registry is issuing certified copies of the Order/Judgment Decree in this format.

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