

In the High Court of Judicature at Madras

Dated : 18.03.2016

Coram :

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

O.P.No.250 of 2013

Sri Manav Construction and Developers
Private Limited, Rep. by its Managing Director,
Mr.Manish Agrawal, Chennai.

.. Petitioner

-VS-

M/s.Land Marvel Projects India Pvt. Ltd.,
Rep. by its Director, Nos.45-47, 3rd Floor,
First Main Road, Gandhi Nagar, Adyar,
Chennai.

.. Respondent

Petition filed under Section 11 (6) of the Arbitration and Conciliation Act, 1996, to appoint an arbitrator to resolve the dispute between the petitioner and the respondent arising out of the agreement dated 16.12.2012 executed between the petitioner and the respondent.

For Petitioner : Mr.P.Raja

For Respondent : Mr.AR.L.Sundaresan, S.C.
For M/s.AL.Gandhimathi

* * * * *

ORDER

The parties are stated to be close to a settlement. Parties are represented. Three years have gone by without either settling the dispute or going to arbitration.

2.Learned senior counsel for the respondent states that if the matter is not resolved, his defence is of the plea of fraud qua the arbitration agreement. It can, however, not be seriously disputed that even that plea now has to be examined by the Arbitrator as per the the given legal position.

3.In view of aforesaid, the following agreed order is passed:

- i. The parties will first endeavour to resolve the disputes themselves in the next fifteen (15) days;*
- ii. If they are unable to do so, the parties may appear before the Tamil Nadu Mediation and Conciliation Centre, Madras High Court Campus, on 11.04.2016 at 2.00 p.m., for resolving the disputes through mediation and the Mediator will endeavour to conclude the proceedings within a maximum period of two (2) months from the first date before him or any extended date as may be granted by this Court;*

- iii. In case, even in mediation the parties are unable to resolve the disputes, **Mr.Justice S.Rajeswaran, a retired Judge of this Court**, is appointed as the Sole Arbitrator to enter upon the reference and adjudicate the disputes inter se the parties. As agreed, 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;*
- iv. All defences as are open in law can be pleaded by the respondent including the plea of fraud, as those aspects would be examined by the Arbitrator in such eventuality.*

4.The original petition is, accordingly, allowed, in the aforesaid terms, leaving the parties to bear their own costs.

(S.K.K., CJ.)
18.03.2016

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.

The Hon'ble Chief Justice

(sra)

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