

In the High Court of Judicature at Madras

Dated : 26.04.2016

Coram :

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

O.P.No.613 of 2013

1.L.S.Abinesh Babu (deceased)

2.A.Sridevi

3.A.S.Madhulikaa

4.A.S.Malavika

(Petitioners 2 to 4 brought on record
as legal heirs of the deceased sole
petitioner as per order dt.01.02.2016
in Appln.No.7965 of 2015)

.. Petitioners

-VS-

1.M/s.Shree Kanchi Steels Pvt. Ltd.,
Rep. by its Managing Director,
Mr.N.V.Baabu.

2.N.V.Baabu

.. Respondents

Petition filed under Section 11 (3) of the Arbitration and Conciliation Act, 1996, to appoint an Arbitrators to settle the disputes arose between the petitioner and the respondent based on the Memorandum of Understanding dated 14.3.2008 entered between the petitioner and the respondents.

For Petitioners : Mr.T.T.Ravichandran

For Respondents : Mr.Rahul Balaji

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ORDER

It is not in dispute that the agreement inter se the petitioner and the second respondent contains an arbitration clause. The matter would have rested at this but for the learned counsel for the petitioners canvassing that despite the first respondent not being specifically a party to the agreement, it should also be made as a party to the arbitration process. Such a plea arose out of the fact that a seal of the company had been affixed on the agreement but the recitals of the agreement do not show that it purported to be on behalf of the company nor was it signed on behalf of the company nor was there any board resolution filed to suggest that there was any authorisation in favour of the second respondent to enter into an agreement on behalf of the company.

2.The aforesaid being the position, I have no hesitation to hold that the first respondent cannot be roped in as a party in the arbitration proceedings. However, it is made clear that if in the view of the petitioner he has some other remedy available against the first respondent, it is for him to take that call.

3.Learned counsel for the parties state that though the arbitration agreement envisages a panel of three arbitrators, to save costs, a single arbitrator may be appointed.

4.Learned counsel for the parties agree that Mr.Justice K.P.Sivasubramaniam, a retired Judge of this Court, be appointed as the Sole Arbitrator to enter upon reference and adjudicate the disputes inter se the parties and that the arbitration proceedings take place under the aegis of the Madras High Court Arbitration Centre.

5.I, thus, appoint **Mr.Justice K.P.Sivasubramaniam, a retired Judge of this Court**, as the Sole Arbitrator to enter upon the reference and adjudicate the disputes inter se the parties. As requested, 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.)
26.04.2016

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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