

In the High Court of Judicature at Madras

Dated : 26.02.2016

Coram :

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

O.P.No.2 of 2016

M/s.Sree Vishnu Magnetics Pvt. Ltd.,
rep. by its Joint Managing Director M.Ramprasad,
Units 1 & 2, Block -2, SIDCO Electronic Complex,
Industrial Estate,
Guindy, Chennai-600 032. .. Petitioner

-VS-

1.J.Ganeshkumar
Proprietor cum M.D. of J.G.Enterprises,
No.156/171, Indira Avenue,
Ashok Nagar,
Kanchipuram-631 502.
2.K.Bharathiraja .. Respondents

Petition filed under Section 11 of the Arbitration and Conciliation Act, 1996, to appoint an Arbitrator to enter into reference, complete the proceedings and give the Award within such time as this Court will be pleased to determine.

For Petitioner : Mr.P.J.Vasanth Kumar

For Respondents : Mr.V.Selvaraj for R1

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ORDER

This petition has been filed under Section 11 of the Arbitration and Conciliation Act, 1996 seeking appointment of an Arbitrator on account of the disputes arising *inter se* the parties in respect of the agreement dated 01.03.2012. The agreement in question is a Service Provider Agreement.

2. The agreement contains arbitration Clause 11.7, as under:-

“11.7 In the event of any dispute or difference arising at any time between SVMPL and Service Provider hereto as the construction, meaning or effect of the terms of Appointment or any terms or thing contained herein or the rights, duties, liabilities and obligations of the either parties hereto in relation to the terms the same shall be referred to a single arbitrator, in case the parties can agree upon one (1), within a period of thirty days upon being called by a party to do so and upon disagreement of such agreement, to three (3) arbitrators one (1) to be appointed by SVMPL and the other by Service Provider and the third to be appointed by the two arbitrators so appointed. All such arbitration proceedings shall be held in Chennai in accordance with the Rules of the Arbitration and Conciliation Act, 1996, as amended from time to time.”

3. The first respondent has entered appearance and does not dispute the arbitration Clause and states that he has no objection for referece of the disputes to arbitration. Respondent No.2 has refused to accept the notice and thus, the notice is deemed to have been served.

4. A joint request is made by both the sides that to save the costs, a single Arbitrator be appointed instead of panel of three Arbitrators and the arbitration be held under the ageis of the Madras High Court Arbitration and Conciliation Centre.

5. The aforesaid shows that there are disputes regarding payments under the agreement, jurisdiction is of this Court and the mode of arbitration has been agreed upon to resolve the disputes.

6. A perusal of the agreement, however, shows that it is only the petitioner and the first respondent who are parties to the agreement and the second respondent is only an authorised signatory of the first respondent which is the sole proprietorship concern and the Sole Proprietor is Mr.J.Ganeshkumar.

7. In view of the aforesaid, by consent, I appoint Ms.V.Bhavani Subbaroyan, Advocate, B3 First Floor, Shawwallace Building, 336, Thamby Chetty Street, Chennai-1 as the Sole Arbitrator to enter upon the reference and adjudicate the disputes inter se the petitioner and the first respondent alone (Second respondent not being necessary party). 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.

8. The Original Petition, accordingly, stands allowed, leaving the parties to bear their own costs.

(S.K.K., CJ.)
26.02.2016

Index : Yes/No
Internet : Yes/No
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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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