

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.11.2016

C O R A M

The Hon'ble Mr. **SANJAY KISHAN KAUL**, Chief Justice

Original Petition No.327 of 2016

1.L.Brindavathi
2.A.Gajalakshmi

.. Petitioners

versus

1.M/s.A.L.Jannath Construction
rep. By its Managing Partner,
Mr.Kaleel, at Priyanka Complex,
464, CTH Road, Varadharajapuram,
Ambattur, Chennai 600 053.

2.Mr.Kaleel
Partner
M/s.Jannath Construction.

3.Mr.Ibrahim
Partner
M/s.Jannath Construction.

Respondents

*Prayer : Petition filed under Order XLIII, Rule 1 of the
Original Side Rules r/w Section 11 (5) and (6) of the
Arbitration and Conciliation Act, 1996.*

For Petitioner : Mr.G.Janakiraman

ORDER

A construction agreement was made between the petitioners as owners and the respondents as builders in respect of a residential building to be constructed on Plot No.186, Kamakoti Nagar, Pallikaranai, Chennai 600100. It is stated that some work has been done, for which the respondents have been paid, but extra work has been abandoned in between. The petitioner claims amounts against such work from the respondents.

2. The agreement contains a Clause for the settlement of disputes through arbitration. In view of the dispute having arisen, the peitioner sent a notice dated 25.06.2015 and followed up with a notice dated 28.08.2015, but both the notices were not served, as the addressee was not found at the given address.

3. The petitioner thereafter filed the present petition under Sections 11 (5) & (6) of the Arbitration and Conciliation Act, 1996 and in the present petition also, service through normal court process was not found possible. The petitioner claims that no other address is available. Thus, the notices have been served through substituted means by publication, which is completed as per the order passed by the Master on 08.11.2016.

4. In view of the aforesaid, it is apparent that disputes have arisen out of the Construction Agreement which contains an Arbitration Clause and the respondents have failed to rebut any allegations as none is present, despite service through publication. It is thus a case of no return.

5. I hereby appoint Mr.Abdul Hameed, Advocate having Office at No.74 and 7, II and III Floors, Marshalls Road, Egmore, Chennai- 600008, (Mobile Phone 98410 60092), who is present in Court, as Sole Arbitrator to enter upon the reference and adjudicate the disputes inter se the parties that the arbitration proceedings to

take place under the aegis of the Madras High Court Arbitration Centre.

6. The original petition is, accordingly, allowed, leaving the parties to bear their own costs.

(S.K.K., CJ.)
11.11.2016

ksr
To

1.The Additional Registrar(Vigilance)

High Court, Madras.

2.The Arbitrator Appointed.

The Hon'ble the Chief Justice

(ksr)

O.P. No.327 of 2016

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