

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19..08..2016

C O R A M

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

Original Petition Nos.343 and 344 of 2016

M/s.Nissan Motor India Pvt Ltd.,
Plot No.1A, SIPCOT Industrial Park,
Oragadam, Mattur (PO)
Sriperumbudur,
Kancheepuram District 602 105
by its authorised signatory
Mr.Simon Tippet. ... Petitioner
both OPs

versus

M/s.Torrent Motors Private Limited
G7, G8, G9, G10a and G10b,
Ground Floor,
Shalimar Morya Park,
Off. Link Road,
Andheri West,
Mumbai 400053. ... Respondent in both Ops

Prayer : Petitions filed under Section 11
(5) of the Arbitration and Conciliation
Act, 1996, for appointment of a Sole
Arbitrator to resolve the disputes between
the parties in terms of the Dealer
agreement for Nissan Products dated
14.02.2014.

- - - - -

For Petitioner : Mr.M.V.Swaroop
For Respondent : No appearance

- - - - -

ORDER

The petitioner, M/s.Nissan Motor India Pvt. Ltd., entered into a dealership agreement with the respondent on 14.02.2014, appointing the respondent as the authorised dealer of Nissan Products. It is the case of the petitioner that the respondent has breached its obligation under the agreement which has given rise to disputes. This resulted in the petitioner terminating the agreement vide letter dated 27.07.2015, giving 30 days' notice to the respondent in accordance with Clause 17.6 of the dealership agreement.

2. The dealership agreement is stated to contain an arbitration Clause -22-12, which reads as under:

'22-12. In the event a dispute arising out of this Agreement is not amicably settled within thirty (30) days, the same shall be referred to arbitration under the provisions of the Arbitration and Conciliation Act, 1996. Each party shall appoint its arbitrator. The two arbitrators will thereafter select a presiding arbitrator who shall preside over the proceedings. The language of the Arbitration shall be English and the venue of arbitration shall be Chennai.'

3. Notice for arbitration was issued on 01.02.2016 and thereby, the petitioner appointed their nominee arbitrator, Mr.Sriram Panchu, Senior Advocate. There has been no response to the notice.

4. In view of the aforesaid facts and circumstances, the present petition has been filed under Section 11(5) of the Arbitration and Conciliation Act, 1996.

5. The endeavour to serve the respondent by normal process did not succeed and thus, the respondent has been served by publication. Learned counsel for the petitioner states that the publication could not be produced before the Master, but he seeks to file the publications in court today. The service is thus completed.

6. None appeared for the respondent, despite publication. It is a case of no return.

7. The facts set out aforesaid show there are disputes inter se the parties, there is an arbitration Clause in the agreement and the jurisdiction is of the Chennai Courts. The petitioner has proposed an Arbitrator, but the respondent has not appointed its Arbitrator.

8. Learned counsel for the petitioner states that unnecessarily, the cost of arbitration may increase, if three arbitrators are appointed. The respondent is not even coming forth. He further states that the

Arbitrator appointed by the petitioner is a Senior Advocate of the Court.

9. In the aforesaid given facts and circumstances of the case, I appoint Mr.Sriram Panchu, Senior Advocate, as the Sole Arbitrator to resolve the disputes between the parties. The arbitration proceedings will be conducted under the ageis of the Madras High Court Arbitration Centre and the parties will be governed by the Rules of the Centre.

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

Sd/S.K.K.CJ,

19.08.2016

//Certified to be a true copy//

Dated this the day of 2016

S.s/19.09.2016

सत्यमेव जयते

COURT OFFICER

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

WEB COPY