

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 13.07.2017

CORAM

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

O.P. No.382 of 2017

T.A.S.C.Jawahar Ayya @ C.Jawher Anand .. Petitioner

-vs-

M/s.Ozone Homes (P) Ltd.,
No.63, G.N.Chetty Road,
T.Nagar, Chennai-600 017.

2.Neelakandan .. Respondents

Prayer: Petition filed under Section 11 of the Arbitration & Conciliation Act, 1996 to appoint a Sole Arbitrator to resolve the disputes between the petitioner and the respondent arising in the Joint Development Agreement dated 19.11.2010 and Addendum dated 21.11.2010 between the parties.

For Petitioner : Mr.G.Vijay Anand

For Respondents : Mr.V.Balasubramanian for R1

Mr.K.P.Sanjeev Kumar for R2
M/s.Ojas Law Firm

ORDER

This petition seeks appointment of an Arbitrator in terms of Clause 41 of the Joint Development Agreement dated 19.11.2010 entered into between the petitioner and the first respondent, reading as under:

"41.Any dispute between the parties shall be referred to the sole arbitration of Mr.S.Neelakantan, Chartered Accountant. The proceedings shall be conducted in English language and the venue of arbitration shall be Chennai. The parties agree to Fast Track Arbitration and shall be disposed of within 90 days from the date of reference. The Arbitrator shall be entitled to pass interim award. The award of the Arbitrator shall be final and binding on the parties."

2.Though the parties appear to have agreed at the time of entering into the agreement that Mr.S.Neelakantan, Chartered Accountant would be appointed as Arbitrator, learned counsel for the petitioner would submit that the Arbitrator appointed under the agreement would be barred from accepting the appointment by virtue of the embargo under Section 12(5) of the Arbitration and Conciliation Act, 1996.

3.A counter has been filed by the second respondent, who is the Arbitrator appointed as per the agreement, objecting to the allegations against him in the original petition. The learned counsel for the petitioner would however not very seriously pursue the allegations made and would confine his submissions to the appointment of an arbitrator.

4. Heard the learned counsel for parties who agree that the disputes between parties may be resolved by arbitration. They would concur on the appointment of Mr. Justice K. Venkatraman, Retired Judge of this Court, as the Sole Arbitrator in the matter.

5. Accordingly, I, appoint Mr. Justice K. Venkatraman, Retired Judge of this Court, residing at L-Block, No. 125, East Anna Nagar, Chennai - 600 102 (Mobile 9444390961), as the Sole Arbitrator to enter upon the reference and adjudicate the disputes inter se the parties and after issuing notice to the parties and upon hearing them, he may endeavour to pass an award as expeditiously as possible, preferably within a period of six months from the date of receipt of the order. The learned Arbitrator is at liberty to fix his remuneration and other incidental expenses, which shall be borne by both the parties equally. The proceedings may be conducted under the aegis of the Madras High Court Arbitration Centre and in accordance with the Madras High Court Arbitration Rules.

6. The Original Petition is, accordingly, allowed, leaving the parties to bear their own costs.

13.07.2017

vga

Dr.ANITA SUMANTH,J.

vga



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