

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 09.11.2017

CORAM

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

O.P. No.731 of 2017

M/s.Aarkaya Consultants,  
Having its registered office at,  
75/4, 2nd Floor, First Avenue,  
Ashok Nagar, Chennai 600 083.

.. Petitioner

-vs-

1.N/s. Nittsu Logistics (India) Private Limited  
Rep.By its General Manager,  
Mr.P.K.Diwakar,  
having Office at No.554-555,  
Chaitanya Capitale, 8th Floor, (8-B),  
Anna Salai, Teynampet,  
Chennai - 600 018.

2. Arbitral Tribunal comprising of  
Mr.S.Ramamurthy,  
Judicial Officer (Retd),  
No.34, Jamal Building,  
35/8, Neelaganda Metha Street,  
Thanikachalam Road,  
T.Nagar,  
Chennai - 600 017.

.. Respondents

**Prayer:** Petition filed under Section 14, 15 and 16 of the Arbitration & Conciliation Act, 1996 to terminate the mandate of the 2nd respondent Arbitrator in the dispute between the petitioner and the 1st respondent pursuant to the Arbitration Agreement dated 01.07.2016 and order of this Hon'ble Court in OP No.883 of 2016 dated 20.01.2017 and to appoint an Arbitrator under Section 11 of the Arbitration and Conciliation Act, 1996.

For Petitioner : Mr. Giridharan

For Respondents : Mr.N.R.R.Arun Natarajan

### **ORDER**

This petition is filed seeking an order of termination of mandate of the second respondent and the appointment of a new Arbitrator to adjudicate disputes inter se the parties.

2.The parties entered into a service agreement dated 01.07.2016 that provides for a mechanism of settlement of disputes by Arbitration under Article 8. Since disputes arose between the parties, the respondent in this petition came before this Court in O.P.No.883 of 2016 and this Court by order dated 20.01.2017 appointed the second respondent as a sole Arbitrator.

3. Mr.Giridharan, learned counsel for the petitioner and Mr.N.R.R.Arun Natarajan, learned counsel for the respondent are agreed on the position that there has been no progress in the matter and that the second respondent, pursuant to his appointment, has not pursued the assignment at all.

4. In view of the agreement expressed by the parties, I am inclined to order this petition by appointing an Arbitrator in substitution of the second respondent appointed earlier by this Court.

Learned counsel for the first respondent would make a specific plea to be treated as the claimant in the arbitration proceedings. I see no reason for the request as the respondent is always at liberty to raise a counter claim in arbitration.

5.Both learned counsel agree that Mr.J.Krishnamurthy, District Judge (retired) be appointed as Sole Arbitrator.

6.I, thus, appoint Mr.J.Krishnamurthy, District Judge (retired) having office at No.B2/D, I floor, Nu-Tech Krishna, Old No.15, New No. 37, Soundararajan Street, T.Nagar, Chennai - 600 017 (Mobile No. 9442092363) as the Sole Arbitrator to enter upon reference and adjudicate the disputes inter se the parties. The learned Arbitrator may, after issuing notice to the parties and upon hearing them, pass an award as expeditiously as possible preferably within a period of six months from the date of receipt of this order. The learned Arbitrator is at liberty to fix his remuneration and other incidental expenses.

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

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**Dr. Anita Sumanth,J.**

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