

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.06.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANIC.R.P.(PD)No.1291 of 2015
& M.P.No.1 of 2015

1. Medicare TPA Services Pvt., Ltd.,
Kolkatta, No.6, Bishop Lefroy
Road, Kolkatta – 700 020
2. Medicare TPA Services Pvt., Ltd.,
Rep. By C.V.Vandana Reddy,
No.1, Circular Road, United India
Colony, Chennai – 24. .. Petitioners

Vs.

Beach Chennai Hospital rep. By its
Proprietor Dr.R.Kanagasabapathi,
No.4, L.I.G., Colony, 3rd Street,
Chennai – 600 081 .. Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, against the order dated 14.2.2015 made in Arb.Case No.MSJ/1/2014 on the file of Court of Sole Arbitrator, Chennai and to uphold the preliminary objection seeking the above proceedings to be held at Kolkatta being the venue / place agreed as per Arbitration Agreement.

For Petitioners : Mr.Elveera Ravindran

For Respondent : Mr. A. Saravanan

ORDER

This Civil Revision Petition has been filed against the order dated 14.2.2015 made in Arb.Case No.MSJ/1/2014 on the file of Court of Sole Arbitrator, Chennai and to uphold the preliminary objection seeking the above proceedings to be held at Kolkatta being the venue / place agreed, as per Arbitration Agreement.

2. The petitioners are the respondents and the respondent is the claimant in Arbitration Case No.MSJ/1/2014. The petitioners have raised a preliminary objection before the Arbitrator to decide the jurisdiction as preliminary issue.

3. According to the petitioners, as per memorandum of understanding dated 18.05.2007 entered into between the parties, the arbitration should be conducted at Kolkatta, in English language. As per Clause No. 29 (c) of the Agreement, the jurisdiction of the arbitration is

only at Kolkatta.

4. The respondent filed counter and stated that by memorandum of understanding, the jurisdiction of the Court in Chennai was not ousted. The petitioners and the respondent are residing in Chennai and the dispute have arisen in Chennai. The petitioners did not object to the jurisdiction of this Court when O.P.No.324 of 2011 was filed for appointment of arbitrator and O.A.No.4309 of 2012 filed by the respondent for interim direction to the petitioners to furnish security for a sum of Rs.40,16,483/-. In view of the same, the respondent prayed for a decision that arbitrator has jurisdiction to settle the dispute, as per memorandum of understanding.

5. The learned Arbitrator held that Arbitrator was not appointed as per clause no.29 of memorandum of understanding. The petitioners did not respond to the claim of the respondent for appointment of arbitrator. The respondent filed O.P.No.324 of 2011 under Section 11 of the Arbitration and Conciliation Act, 1996 before this Court for appointment of arbitrator. The arbitrator also took note of the fact that Clause 29 of Memorandum of understanding deals not with reference to jurisdiction of

this Court. The petitioners and the respondent are residing at Chennai, the arbitrator was appointed at intervention of the Hon'ble Chief Justice of this Court and dismissed the objection raised by the petitioners.

6. Against the order of dismissal dated 14.2.2015 made in Arb.Case No.MSJ/1/2014 on the file of Court of Sole Arbitrator, Chennai, the present Civil Revision Petition is filed.

7. Heard the learned counsel for the petitioners and respondent and perused the materials available on record.

8. I have gone through the entire clause No.29 of memorandum of understanding. The arbitrator was not appointed as per clause 29 of memorandum of understanding. The said arbitrator was appointed by this Court when the respondent filed O.P.No.324 of 2011 under Section 11 of the Arbitration and Conciliation Act, 1996. Before this Court, the petitioners did not raise question of jurisdiction for this Court to appoint arbitrator or that Arbitrator has no power to hold arbitration proceedings in Chennai.

9. A reading of the Clause 29(c) of Memorandum of Understanding reveals that the said clause does not deal with jurisdiction of the Court, but, deals only with place of arbitration proceedings. Further, the memorandum of understanding was entered into between the 2nd petitioner and the respondent, who are at Chennai. The cause of action is bundle of facts and each fact gives jurisdiction to a Court where such cause of action has arisen. In the present case, the Memorandum of Understanding entered at Chennai, parties are residing at Chennai. The claim of respondent has arisen in Chennai, the arbitrator was appointed by this Court.

10. In view of the above reasons, the arbitrator appointed by this Court has jurisdiction to conduct the arbitration proceedings in Chennai. For the above reasons, this Civil Revision Petition is devoid of merits and the same is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

28.06.2017

Speaking Order/Non-speaking Order
Index :Yes/No
ssd

To

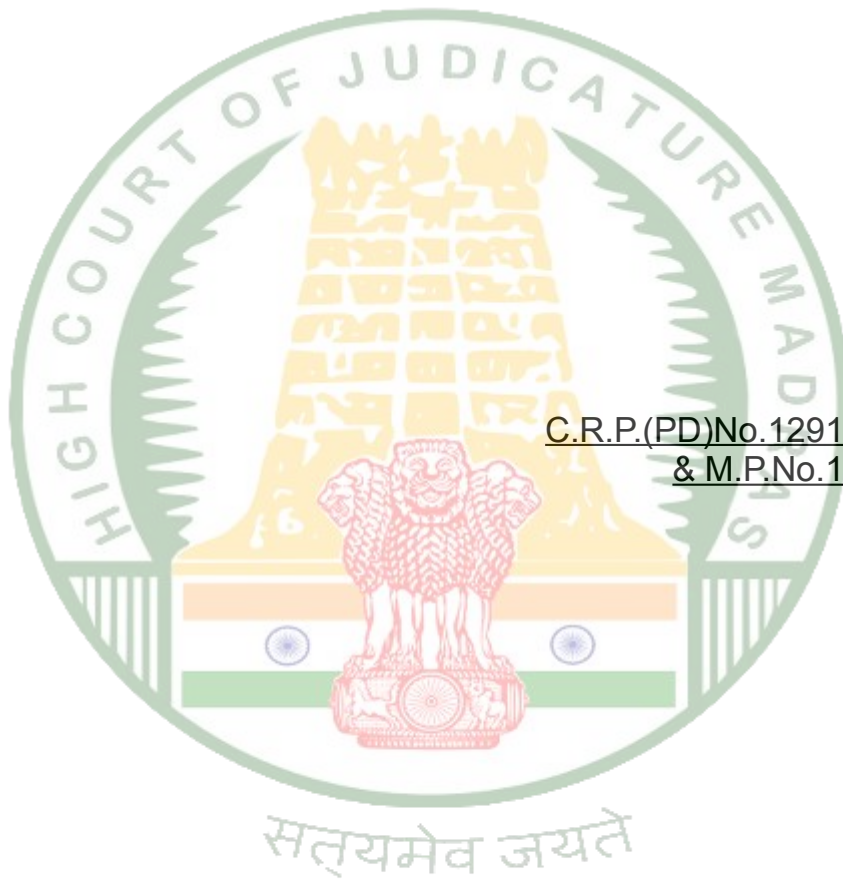
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2. The Sole Arbitrator, Chennai



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V.M.VELUMANI, J.

ssd



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