

In the High Court of Judicature at Madras

Dated : 24.02.2017

Coram :

The Hon'ble Mr.Huluvadi G.Ramesh, Acting Chief Justice

O.P.No.585 of 2016

M/s.Birdy Inc
73, Sri Towers – First Floor,
Municipal Office Road,
Tirupur – 641 604
rep. by its Partner.

.. Petitioner

-VS-

M/s.Technopak Advisors Pvt. Ltd.,
3, Padmini Enclave,
Hauz Khas
New Delhi – 110 016
Also at
4th Floor, Tower – A
Building No.8
DLF Phase – II Gurgaon,
Haryana – 122 002.

.. Respondent

Petition filed under Section 11 (6) of the Arbitration and Conciliation Act, 1996, to appoint any competent person as an Arbitrator to adjudicate upon the dispute arisen between the petitioner and the respondent.

For Petitioner : Mr.G.Kalyan Jhabakh

For Respondent : Notice Served
No Appearance

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ORDER

This petition has been filed seeking to appoint an Arbitrator to adjudicate upon the disputes arisen between the petitioner and the respondent.

2. The petitioner and the respondent have entered into a Hire Purchase Agreement dated 30.12.2014, containing Clause 30 as arbitration clause, which reads as under:-

“30. If any dispute arises between the parties out of or in connection with the agreement whether in the nature of interpretation or meaning of any terms hereof or as to any claim by one against the other, or otherwise the same shall be referred to arbitration of a common arbitrator if agreed upon otherwise to two arbitrators one to be appointed by each party hereto and the arbitration shall be governed by the Arbitration Act, 1940”.

3. On 28.06.2016, the petitioner issued a notice to the respondent invoking arbitration clause. In that notice name of three retired District Judges were suggested, of which, the respondent was requested to

choose any one. Though the respondent received the said notice, till date they have not responded. Hence, the present petition seeking appointment of a Sole Arbitrator to resolve the disputes.

4. Notice sent in this petition was served on the respondent and proof of service has been filed. The name of the respondent has also been printed in the cause list.

5. Today when the matter is taken up for hearing, none appeared for the respondent. Since the agreement contains an arbitration clause and disputes having arisen between the parties and according to the petitioner, the jurisdiction is of the Chennai Courts, I am of the view that the matter is liable to be referred to arbitration.

6. The learned counsel appearing for the petitioner submitted that any one of the Arbitrator in the panel of a retired District Judge may be appointed as an Arbitrator in this matter.

7. I, thus, by consent appoint Mr.D.Krishnaraja, a retired District Judge as the Sole Arbitrator, to enter upon the reference and adjudicate the disputes *inter se* the parties. The arbitration proceedings will be

conducted under the aegis of the Madras High Court Arbitration Centre and the parties will be governed by the Rules of the Centre. In case of non-availability of the Madras High Court Arbitration Centre, the case may be held at Nani Palkhivala Arbitration Centre at No.22, Karpagambal Nagar, Mylapore, Chennai-600 004. The parties to appear before the Centre on 24.03.2017 at 10.30 A.M.

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

(H.G.R., ACJ.)
24.02.2017

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Note: Mark a copy to

- (i) The Addl. Registrar-Vigilance
Madras High Court Arbitration Centre,
Madras High Court Campus, Chennai.
- (ii) The Arbitrator, as referred above.

The Hon'ble Acting Chief Justice

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