

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.08.2017

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THE HONOURABLE DR.JUSTICE ANITA SUMANTH

O.P.No.752 of 2016

N.Jayamurugan

.. Petitioner

-VS-

Saravana Global Holding Ltd.,
(Formerly known as Saravana Foundation Ltd.)
No.15, New Giri Road,
Off. G.N.Chetty Road,
T.Nagar, Chennai-17.

.. Respondent

Prayer: Petition filed under Section 11 (6) of the Arbitration & Conciliation Act, 1996 to appoint a Sole Arbitrator to arbitrate the disputes that have arisen between the parties under Memorandum of Understanding dated 18.05.2006 and to pass a reasoned award and to direct the respondent to pay the costs of the petition.

For Petitioner : Mr.ARL.Sundaresan,
Senior Counsel for
Mr.G.Thangapandian

For Respondent : Mr.K.Ravi

ORDER

This petition is filed seeking appointment of a Sole Arbitrator to resolve the disputes that have arisen between the parties under

Memorandum of Understanding dated 18.05.2006.

2.The parties had entered into a Memorandum of Understanding on 18.05.2006 that provides for identification and acquisition of land to the extent of 200 acres at an average price of Rs.9,50,000/-. A sum of Rs.50,00,000/- was received by the respondent as an advance in terms of clause 2 of the aforesaid MOU.

3.Mr.Sundaresan would submit that pursuant to the said Memorandum of Understanding, a sum of Rs.5,33,76,000/- has been received by the respondent as confirmed by the statement of accounts of the respondent as on 31.03.2008, that is liable to be paid over to him. He pointed out that the aforesaid statement has been supplied to the respondent, which has, vide its letter dated 05.03.2015 requested the petitioner to furnish another copy in order that the same may be 'settled' by it.

4.Mr.Ravi, learned counsel appearing for the respondent seriously objected to the appointment of the Arbitrator on the ground that the petition was barred by limitation. He would, in this regard, refer to clause 15 of the MOU reading thus:

"15.The parties hereto have mutually agreed to complete the process in acquiring the land an extent of 200 acres, within 90 days (Ninety days) from the date of this MOU."

5.The correspondence between the parties would however reveal as noted above that as on 5th March 2015, the respondent appears to have expressed its intention to settle the matter stating as follows:

We understand that you have issued a notice in respect of the dues to you as on 31.03.2008. We do not have a copy of it and we request the copy of the notice may be handed over to Mr.S.Rajasekher – Doc Asst Manager for settlement.

6.The correspondence exchanged also indicates that the parties were engaged in active discussion of the dispute all along.

7.The existence of the disputes inter se parties is clear. The clause for Arbitration is also not in dispute. Prima facie, the cause of action appears to be alive even as on 05.03.2015, when the respondent indicates its inclination to settle the disputes.

8.Under these circumstances, I am inclined to accept the prayer for appointment of Arbitrator.

9.Accordingly and by consent of the parties, I appoint Mr.Justice K.P.Sivasubramaniam, Retired Judge of this Court, residing at No.47, Pulla Avenue, Shenoy Nagar, Chennai – 600 030

Dr.ANITA SUMANTH,J.

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(Mobile No.9444701312), as the Sole Arbitrator to enter upon reference and adjudicate the disputes inter se the parties. He may, after issuing notice to the parties and upon hearing them, 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. 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.

10.The parties are at liberty to raise all issues before the learned Arbitrator including on the aspect of limitation.

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

01.08.2017

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