

In the High Court of Judicature at Madras

Dated : 27.01.2017

Coram :

The Hon'ble Mr.Sanjay Kishan Kaul, Chief Justice

O.P.No.811 of 2016

M/s.Hi Tech Engineers,
rep. by its Proprietor Mr.R.T.Suresh,
No.10, Guru Raghavendra Flats,
Ram Nagar 1st Main Road,
Nanganallur,
Chennai-600 061.

.. Petitioner

-VS-

1.M/s.Apaar Creations Private Ltd.,
rep. by its Director Mr.Jasbir Singh Narula,
No.1, Annapurna Apartments,
Ground Floor,
New No.11, Old No.3, Warren Road,
Mylapore, Chennai-600 004.

2.Harinandan,
Arbitrator and Project Management Consultant,
No.12, Jawaharlal Nehru Street,
V.G.N. Nagar, Phase – IV (Mogappair West),
Maduravoyal (P.O), Nolambur,
Chennai-600 095.

.. Respondents

Petition filed under Section 11 (6) of the Arbitration and Conciliation Act, 1996, to appoint an arbitrator to adjudicate on the disputes between the petitioner and the respondent.

For Petitioner : Mr.A.Abdul Rahman
for M/s.Nathan and Associates

For Respondents : No Appearance

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ORDER

The agreement *inter se* the parties dated 13.02.2014 contains the arbitration clause as under:-

“29.ARBITRATION

Any dispute arising out of this agreement shall be settled through the Arbitration as per the Arbitration & Conciliation Act, 1996 and the place of arbitration shall be Chennai and the language shall be English.

The owners shall have the right to appoint a sole Arbitrator whose decision shall be final and binding.”

2. The learned counsel for the petitioner initially sought to contend that the arbitration clause is vague, as it says that the owners have right to appoint the Sole Arbitrator.

3. There is no ambiguity, as the owners are the respondents as per the articles of the agreement.

4. The next contention of the petitioner is based on the financial dealings between the first respondent and the second respondent. The allegations made in the notice dated 2.2.2016 are completely vague and in the reply filed by the second respondent, it has been specifically denied.

5. The submission of the learned counsel for the petitioner

makes it quite abundantly clear that the petitioner really wants to wriggle out of the manner of the arbitration provided under the contract in as much as the right has been conferred on the first respondent to appoint the Arbitrator. Thus, the repeated plea is of appointment of an “independent” Arbitrator. The petitioner having voluntarily agreed to confer right on the respondents as per the contract qua who should appoint the Arbitrator, the plea of the petitioner cannot be entertained.

6. The original petition is dismissed. No costs.

(S.K.K., CJ.)
27.01.2017

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The Hon'ble Chief Justice

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