

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 28.06.2017

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THE HONOURABLE DR.JUSTICE ANITA SUMANTH

O.P. No.881 of 2016

India Yamaha Motor Private Limited
through its Authorized Signatory Anil Kumar .. Petitioner

-VS-

S.Sivasundar .. Respondent

Prayer: Petition filed under Section 11(5) of the Arbitration & Conciliation Act, 1996 to appoint a Sole Arbitrator to adjudicate and decide the disputes between the parties herein and to grant liberty to the petitioner to file its claims in terms of Section 23 of the Arbitration and Conciliation Act, 1996 before the said Sole Arbitrator for adjudication and to direct the respondent to pay the cost of the petition.

For Petitioner : Ms.Inthu Karunakaran

For Respondent : Mr.A.Tamilvanan

ORDER

This petition seeks appointment of a Sole Arbitrator to resolve the disputes between the petitioner and respondent that have arisen pursuant to a Letter of Intent dated 02.08.2014.

2.A Letter of Intent, dated 02.08.2014, was executed inter se the parties, for purchase of piece or parcel of land total admeasuring 15.36 grounds (36,864 sq.ft.) situated Opp. Bahwan Cybertek Tower, Near Perungudi Toll Plaza, Rajiv Gandhi Salai, Okkiyam, thoraipakkam, Perungudi, Chennai-600 097. The agreement contains an arbitration clause 10, which reads as under:

"10.In case of any dispute or claim arising out of or in connection with or relating to this Letter of Intent, the parties shall attempt to first resolve such dispute amicably. In the event no amicable resolution or settlement is reached within a period of thirty (30) days from the date of reference of such dispute, such dispute shall be referred to a sole arbitrator to be mutually appointed by the parties. The arbitration proceedings shall be held in accordance with the provisions of the Arbitration and Conciliation Act, 1996 or any statutory modification/ amendment thereof."

3.Disputes inter se the parties arose, resulting in the issuance of a notice, through counsel, by the petitioner, dated 26.10.2015, invoking the arbitration clause. This was not replied to by the respondent. Insofar as the issue of arbitration is concerned, the only defence taken is that the Letter of Intent, dated 02.08.2014, has lost its enforceability.

4.The agreement produced before the Court as well as the communications between the parties leaves no manner of doubt that the Letter of Intent, dated 02.08.2014 was executed between the parties and that contains the aforesaid arbitration clause. The existence of disputes can also not be doubted. In fact, both parties are claiming amounts as against each other.

5.When the matter was called for hearing today, learned counsel for the petitioner would suggest the nomination of Mr.K.Balasubramanian, District Judge/Registrar General High Court (Retired) as the Sole Arbitrator.

6.Mr.A.Tamilvanan, learned counsel appearing for the respondent agrees to the nomination.

7.I thus appoint Mr.K.Balasubramanian, District Judge/Registrar General – High Court (Retired), residing at Door No.33A, Block No.52, Jeevan Bheema Nagar (LIC Colony), Anna Nagar West Extension, Chennai 600 001, as the Sole Arbitrator to enter upon reference and adjudicate the disputes inter se the parties and 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

Dr.ANITA SUMANTH,J.

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at liberty to fix his remuneration and other incidental expenses, which shall be borne by both the parties equally. The proceedings may be conducted under the aegis of the Madras High Court Arbitration Centre in accordance with the Madras High Court Arbitration Rules.

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

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28.06.2017

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