

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 04.01.2018

CORAM

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

O.P. No.596 of 2017

Mr.B.Ethiraj
son of Balasubramanian,
No.198, Bharathidasan Street,
V.G.N. Shanthi Nagar,
Ambattur, Chennai – 600 053.

.. Petitioner

Vs.

Tower Vision India Pvt., Ltd.,
L-2A, Haus Khas Enclave,
New Delhi – 110 016.

Having its Circle Office
Ramaniam The Lords,
Block-1, No.1&2, Jawaharlal Nehru Road,
Ekkattuthangal,
Chennai – 600 032.

.. Respondent

Prayer: Petition filed under Section 11(6) of the Arbitration & Conciliation Act, 1996 to appoint an Arbitrator to adjudicate on the disputes between the petitioner and the respondent and award cost of the petition.

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For Petitioner : Ms.S.Vijaya Bharathi

For Respondent : None appeared

ORDER

This petition seeks appointment of a Sole Arbitrator to adjudicate upon disputes between the parties out of license dated 17.01.2008.

2.The facts are that the petitioner and the respondent entered into a license agreement dated 17.01.2008 for the installation and operation of tele-communication infrastructure including antenna and other equipment. The telecommunication tower is said to have been operational from 2008 till 2015 when business was stopped by the respondent.

3. Thereafter the parties appear to have entered into a settlement dated 18.05.2016 whereunder, the petitioner agreed to receive a sum of Rs.1,24,988/- after adjustment of security deposit of Rs.42,500/- as full and final settlement. This deed has not been given effect to, and the amount not been received from the respondent. As a result, legal notices were issued on 21.06.2016 and 18.03.2017 to both of which there is no response. Hence, the present petition seeking the appointment of Arbitrator in terms of Clause 24 of the License deed. Clause 24 reads as under:

'24. All disputes/differences relating to and/or arising out of this Deed and/or anything done in pursuance thereof shall be referred to a sole arbitrator to be appointed by the licensee. The place of arbitration shall be at Chennai and the arbitration proceedings shall be carried out in accordance with the provisions of the Arbitration and Conciliation Act, 1996 or any other statutory modifications, enactment of re-enactments thereof and the decision of the sole arbitrator shall be binding on the parties and the courts of Chennai shall have jurisdiction with respect to interim relief/s, including interim relief/s under section 9 of the Arbitration and Conciliation Act.'

4. Notice was issued by this Court on 08.11.2017 and AOS has been filed, evidencing receipt of notice by the respondent. Since there is no appearance, paper publication was duly effected on 04.11.2017.

5. The name of the respondent has been printed in the cause list despite which there is no appearance on its behalf. I am thus of the view that sufficient opportunity has been granted to the respondent. There is an Arbitration agreement as between the parties and the existence of a dispute is also not disputed in the light of the full and final settlement deed dated 18.05.2016 that has not been acted upon. In these circumstances, I am inclined to appoint an arbitrator as prayed for.

6.I, thus, appoint Mr.D.Pradeep Kumar, Panel Advocate having office at New.No.10, Nagamani Street, Chintadripet,

Chennai – 600 002. (Mobile No.9884863343) 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, 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.

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

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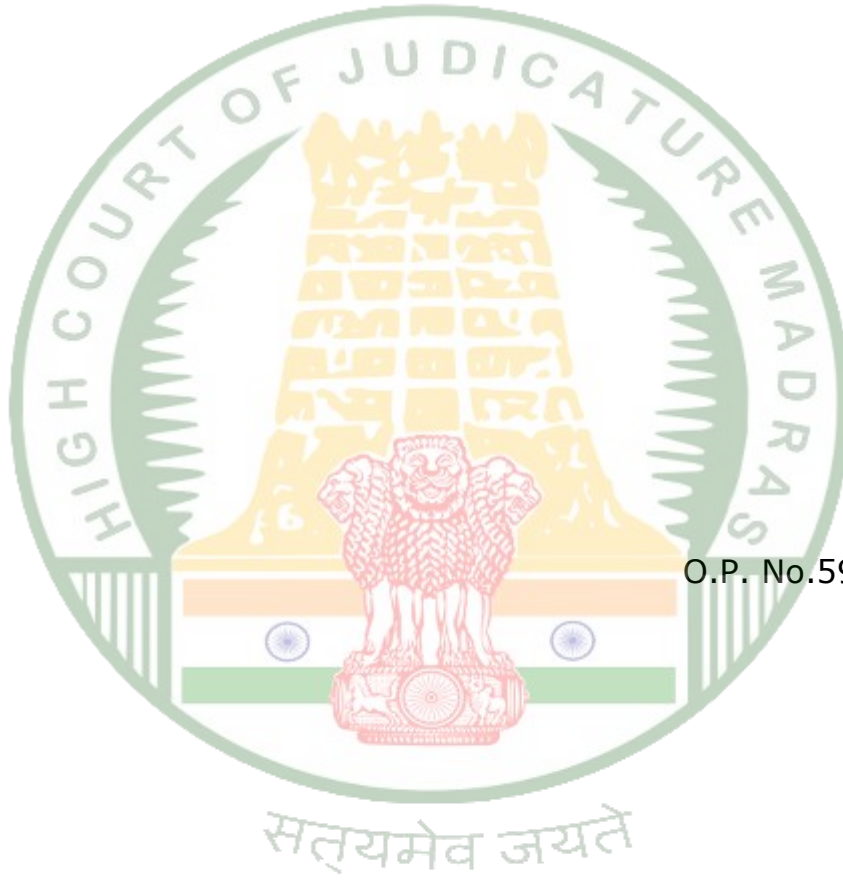
04.01.2018

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Dr.Anita Sumanth,J.

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