

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 27.02.2018

CORAM

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

O.P. No.960 of 2017, O.A. Nos.877 &
878 of 2017 and A. No.5448 of 2017

K.Kumaran

.. Petitioner

-vs-

1.KGS Developers Ltd.,
No.63, Kamaraj Avenue 1st Street,
Adyar, Chennai-600 020.

2.Mr.P.V.Sanmugam

3.Mr.Gigi George

4.KGS Infrastructure Ltd.
No.63, Kamaraj Avenue 1st Street,
Adyar, Chennai-600 020.

5.KGS Engineering Ltd.
No.63, Kamaraj Avenue 1st Street,
Adyar, Chennai-600 020.

6.KGS Constructions Ltd.,
No.63, Kamaraj Avenue 1st Street,
Adyar, Chennai-600 020.

7.KGS Nelsun Paper Mill Ltd.,
KGS Corporate House,
No.43, Besant Avenue Road,
Adyar, Chennai-600 020.

8.KGS Aranmula International Airport Ltd.,
No.63, Kamaraj Avenue 1st Street,
Adyar, Chennai-600 020.

9. Brick Boulevard Builders Pvt. Ltd.,
KGS Corporate House,
No.43, Besant Avenue Road,
Adyar, Chennai-600 020.

10. KGS BMH Healthcare Ltd.,
KGS Corporate House,
No.43, Besant Avenue Road,
Adyar, Chennai-600 020.

11. Saravana Realty Pvt. Ltd.,
Swathi Court, Pent House,
T.Nagar, Chennai-600 017.

.. Respondents

Prayer: Petition filed under Section 11 of the Arbitration & Conciliation Act, 1996 to appoint an Arbitrator to arbitrate over the dispute arising out of the violation of the agreement dated 07.02.2016 by the respondents and to direct the respondents to pay the cost of the petition.

For Petitioner : Mr. Arun C. Mohan

For Respondents : Mr. R. Sankaranarayanan for
Mr. N. P. Vijayakumar
for R1, 2, 4, 6, 8 to 11
R3 – no appearance
Mr. Thriyambak Kannan for R5 & 7

ORDER

The Original Petition seeks the appointment of an Arbitrator in terms of section 11(6) of the Arbitration and Conciliation Act 1996 ('Act') to arbitrate upon disputes arising out of agreement dated 07.02.2016.

2. Original Applications in O.A.Nos.877 and 878 of 2017 pray for an order of injunction restraining the respondents from alienating or encumbering the immovable assets of the 1st respondent company and from, in any manner, altering or diluting the share-holding structure in the 1st respondent company, both reliefs sought pending disposal of proceedings for arbitration inter se the parties.

3. A.No.5448 of 2017 prays for an order of attachment of the properties detailed in schedule 5 therein, pending disposal of proceedings for arbitration.

4. Heard Mr.Arun C.Mohan, learned counsel appearing for the petitioner, Mr.R. Sankaranarayanan, learned Senior Counsel appearing on behalf of Mr.N.P.Vijayakumar, learned counsel appearing for respondents 1,2,4,6,8 to 11 and Mr.Thriyambak Kannan, learned counsel appearing for respondents 5 and 7. There is no appearance for the 3rd respondent.

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5. At the threshold and in principle, the parties agree that the disputes that have arisen inter se are liable to be referred to arbitration.

6. Clause 17 of the Agreement dated 7.2.2016 provides for the resolution of disputes inter se the parties by way of Arbitration to be conducted by a sole Arbitrator and learned counsel unanimously suggest that a retired Judge of this Court be appointed for the purpose.

7. I thus appoint Mr. Justice R. Balasubramanian, Retired Judge of this Court as the sole Arbitrator in the matter. He is requested 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 this order. The learned Arbitrator is at liberty to fix his remuneration and schedule of expenses to be borne by the parties equally.

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

9. This Court has granted an order of status quo in the section 9 applications on 11.09.2017. In the light of the reference of the matter to the learned Arbitrator for decision, all learned counsel agree that the present order may continue for a period of eight

weeks from today. The order of status quo is thus extended and will continue till 24.4.2018.

10. Parties are liberty to move applications in terms of section 17 of the Act seeking a continuance/variance of the present order of status quo or any other interim relief as they may deem necessary before the learned Arbitrator, who is requested to consider and dispose of the same on priority and in accordance with law.

11. All applications are closed in the above terms.

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Note: Issue order copy on 05.03.2018

27.02.2018



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DR.ANITA SUMANTH,J.

Vga



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