

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.07.2019

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THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

O.P.No.385 of 2019

1. D.Indra
2. D.Ramachandran .. Petitioners

Vs.

IG3 INFRA LIMITED
(Formerly known as ETL
Infrastructure Services Limited
& also as Indian Green Grind Group Limited),
"Chennai One",
Pallavaram-Thoraipakkam 200 Feet Road,
Thoraipakkam, Chennai-600 097. .. Respondent

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Prayer : Petition filed under Section 11(5) of the Arbitration and Conciliation Act, 1996, praying to appoint a Sole Arbitrator to adjudicate upon the disputes between the petitioners and respondent arising out of the Agreement dated 03.04.2005.

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For Petitioners : Mr.R.Palaniandavan

For Respondent : Mr.Uttam Joseph Cheziyan

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ORDER

This Original Petition is filed seeking for appointment of a Sole Arbitrator to adjudicate upon the disputes between the petitioners and respondent arising out of the Agreement dated 03.04.2005.

2. The first petitioner entered into Development Agreement dated 03.04.2005 with ETL Infrastructure Services Limited for construction of an Information Technology Park (IT Park). Pursuant to the same, she executed a General Power of Attorney of even date and both the documents are registered with the registration authorities. Clause B.3 provides for time limit of 18 months to complete the Phase I, while 48 and 60 months time were provided for completion of Phase II and III of the IT Park. Since there were non-compliance of the statutory requirements, the authorities stopped the project. The petitioners claimed that as per the Agreement, the entire project ought to have been completed by 2010, whereas, even Phase I was not completed. It is stated that the first petitioner sent various letters in the year 2010 itself seeking to terminate the Agreement and to cancel the Power of Attorney and in fact, a draft Deed of Cancellation of the Agreement was sent along with the letter dated 19.01.2011. Thereafter, under due intimation, the first petitioner cancelled the Power of Attorney on 07.03.2011 and she settled the property in favour of her brother/the second petitioner herein on 19.09.2016. The petitioners requested the respondent to restore the possession of the land as it was in the year 2005. Since their efforts did not evoke any positive response, they invoked the arbitration clause B(8)(h) of the

Agreement and sent a legal notice dated 13.03.2019 nominating a Sole Arbitrator. The respondent issued a preliminary reply dated 05.04.2019 with mere denial of the allegations and only after the expiry of thirty days period stipulated in sub-section (5) of Section 11 of the Arbitration and Conciliation Act, 1996, the respondent sent another reply dated 22.04.2019 rejecting the nomination of the sole arbitrator. Under the said circumstances, the petitioners filed this petition seeking the appointment of a Sole Arbitrator to adjudicate upon the disputes with the respondent arising out of the Agreement dated 03.04.2005.

3. Heard the learned counsels on either side. Learned counsel for the parties submitted that they are agreeable for the appointment of Hon'ble Mr.Justice K.N.BASHA, a retired Judge of this Court as the sole Arbitrator.

4. Considering the submissions of the learned counsels for the parties, this Court appoints Hon'ble Mr.Justice K.N.BASHA, a retired Judge of this Court, residing at Flat No.F1, "STAR", No.25/1, Dr.Ambedkar Link Road (Old ICF Link Road), North Thirumalai Nagar, Villivakkam, Chennai-600 049 (Phone No.94444 54545), as the Sole Arbitrator to enter upon reference and adjudicate the disputes inter se

PUSHPA SATHYANARAYANA, J.

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the parties. The learned Arbitrator 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 shall be conducted preferably in the Madras High Court Arbitration Centre and in accordance with the Madras High Court Arbitration Rules.

5. The Original Petition is ordered accordingly, leaving the parties to bear their own costs.

30.07.2019

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