

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.11.2019

CORAM

THE HONOURABLE MRS. JUSTICE PUSHPA SATHYANARAYANA

Original Petition No.389 of 2019

1.B.R.Balan
2.B.uma
3.B.A.Joseph
4.Saanthi Joseph

... Petitioners

Vs.

1.S.N.Barathi
2.Kalpana Barathi

... Respondents

Petition filed under Section 11(6) of the Arbitration and Conciliation Act, 1996

a. to appoint an Arbitrator to resolve the disputes that have arisen between the petitioners and the respondents under the Memorandum of Compromise dated 15.09.2016

b. directing the respondents to pay the cost of the present proceedings

For Petitioners : Mr.G.Balachandar

For Respondents : Ms.Sneha Ramkumar

ORDER

On 05.08.2019 the matter was referred to Tamil Nadu Mediation and Conciliation Centre, High Court, Madras for settlement. The parties entered into compromise before the Mediators and have filed terms of compromise duly signed by the parties and attested by their respective counsel. The relevant paragraphs of the terms of compromise are as under:-

JOINT MEMORANDUM OF SETTLEMENT

The parties above named state as follows:

1. The petitioners 2 to 4 are represented by the 1st petitioner who is their power agent. The respondents are represented by Mr.N.B.Yokesh, (the power agent of Mr.S.N.Barathi and Mrs.Kalpana Barathi vide Deed of General Power of Attorney dated 10.08.2019), who agree to abide by the terms and conditions set out hereunder which will be binding upon all the parties above named.

2. The petitioners referred above had agreed upon

certain terms regarding transfer of shares of M/s.CANALAIRZ AIRZ SOLUTIONS PVT LTD., (hereinafter referred to as the Company) (CIN No.U29197TZ2008FTC014657) situated at S.F.No.81/2, Adavan Industrial Estates, Athipalayam Road, Chinnavedampatti, Coimbatore 641 006 a company duly registered and incorporated under the Companies Act, 1956 to the respondents and the said terms were duly reduced into writing by a Memorandum of Understanding (hereinafter referred as MOU) dated 15.09.2016.

3. In light of certain disputes that arose between the parties in pursuance of the MoU, O.P.389 of 2019 came to be filed by the petitioners seeking appointment of Arbitrator. In the meantime, the matter was referred to the High Court Mediation, wherein by the prolonged persuasion by His Lordship the Hon'ble Acting Chief Justice and the learned Additional Advocate General, the parties have agreed to close the issues in an amicable manner in various terms, which were agreed to be reduced in to writing by way of the present Joint Memorandum of Settlement as follows:

Now this memorandum of settlement witnesseth and it is

hereby agreed by and between the parties hereto as follows:

(i) The respondents agree to remit a sum of Rs.32,00,000/- (Rupees thirty two lakhs only) ("Amount") to the petitioners towards full and final settlement of all claims made by the petitioners, within a period of eight months from this date i.e., on or before 18.06.2020 to be split up in three instalments in the form of account transfers Viz., RTGS to the savings Bank account maintained with HDFC Bank, (IFSC Code: HDFC0000729) Mettupalayam Road, Coimbatore bearing SB A/c.No.07291140000125 in the name of Mr.B.R.Balan, the first petitioner above named and the petitioners agree to receive the same in the following manner:

a) A sum of Rs.15,00,000/- (Rupees Fifteen Lakhs Only) within a period of 30 days from the date of this MOU i.e., on or before 18.11.2019.

b. A sum of Rs.8,50,000/- (Rupees Eight Lakhs and Fifty Thousand Only) on or before 18.02.2020.

c. the remaining sum of Rs.8,50,000/- (Rupees eight lakhs and fifty thousand only) on or before 18.06.2020.

(ii) It is clarified that the said amount being paid to the

petitioners by the respondents is without prejudice to the respondents rights and contentions in the matter and this payment does not amount to the acceptance of any liability in any manner whatsoever.

(iii) The petitioners agree and accept that the Honda City Car bearing registration No.TN 38 AZ 2041 which stands presently in the name of the company ("Vehicle") is to be handed over within one week of signing of this Agreement, in Coimbatore to the respondents address as mentioned in the cause title above.

(iv) The petitioners further vouch that the vehicle is in good working condition and the respondents agree to take in such condition.

(v) It is agreed declared and confirmed by and between the parties hereto that neither of the parties shall be entitled to institute any proceedings or pursue any pending proceedings, whether Civil or Criminal, against the Company or the respondents before any Court;

(vi) It is agreed declared and confirmed by and between the parties hereto that this Agreement constitutes a full and final, valid and binding and lawful settlement of all

disputes and differences between the parties.

(vii) It is agreed declared and confirmed by and between the parties hereto that this Agreement has been executed by the parties voluntarily, without any undue influence and without duress, and each party has read and understood the terms and conditions herein contained.

(viii) The parties above named agree to abide by all the conditions stated above in its letter and spirit without interpreting the terms and conditions otherwise with the sole intention to part as friends and to have a healthy relationship among parties.

(ix) The respondents also agree to stick on to the payments schedule without any default, failing which agree to pay interest at the rate of 18% per annum on the outstanding sum till the date of realisation.

2. This Court places its appreciation for the cooperation extended by the Hon'ble Dr. Justice Vineet Kothari (ACJ) who graciously agreed to get along with Mr. P. H. Arvindh Pandian, learned Additional Advocate General in successfully facilitating the parties to arrive at an amicable settlement.

3. The Joint memorandum of settlement dated 18.10.2019 is taken on record and the original petition stands disposed of in terms of the memo of settlement. The Joint Memorandum of Settlement dated 18.10.2019 shall form part of the order. No costs.

05.11.2019

Index : Yes/ No
Internet : Yes
Speaking/Non-speaking Order
dpq



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PUSHPA SATHYANARAYANA, J.

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