

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.494 of 2019

M/s.IPositive
a Partnership firm
rep. by its Chief Executive Officer
Mr.Karthikeyan R.Shah,
Plot No.768, Karpaga Nagar,
3rd Street, K.Pudur,
Madurai-625 007. .. Petitioner

Vs.

Venper Academy
rep. by its Proprietor
Mr.J.Satheesh Kumar
No.1/445, 2nd Floor Upstairs to KFC,
Opp. To Sri Ramachandra University,
Mount Poonamallee Road,
Porur, Chennai-600 116. .. Respondent

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Prayer : Petition filed under Section 11(5) of the Arbitration and Conciliation Act, 1996, praying to appoint an independent Sole Arbitrator to adjudicate the disputes arising between the petitioner and the respondent pursuant to the Partnership Deed dated 20.08.2017.

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For Petitioner : Mr.Christopher Manoharan

For Respondent : Ms.Gurmeet Kour
for M/s.R & P Partners

ORDER

This Original Petition is filed seeking for appointment of an independent Sole Arbitrator to adjudicate the disputes arising between the petitioner and the respondent pursuant to the Partnership Deed dated 20.08.2017.

2. The petitioner, which is a partnership firm, engaged in the business of running coaching institutes at Madurai and various parts of Tamil Nadu. When the petitioner wanted to start the institute at Madurai, the respondent suggested them to start an institute in Coimbatore. They entered into a Partnership Deed dated 20.08.2017 for commencing the Coaching Institute at Coimbatore and the said partnership deed is valid for a period of three years. The petitioner stated that while the administrative activities were undertaken by the petitioner, the respondent has taken care of the study activities. When the institute has grown and attained a considerable profit, the respondent put unnecessary conditions to grab the business. The petitioner also stated that when it started a new branch, the respondent insisted upon the petitioner to execute a new franchisee agreement, that too, when the Partnership Deed is in force. The new agreement requires 50% estimated revenue sharing, which, according to the petitioner, could not have been done and thus, it did not give

consent for the same. At that stage, the respondent terminated the Partnership Deed unilaterally. Clause 12 of the said agreement provides for arbitration. Hence, the petitioner issued a legal notice dated 08.04.2019 and also filed O.A.No.392 of 2019 before this Court, which was disposed of on 29.04.2019. Subsequently, the petitioner sent a letter dated 10.05.2019 nominating an Advocate, which was not accepted by the respondent and they suggested names of the retired Judges of this Court to be appointed as the Arbitrator in the reply letter dated 20.05.2019. Hence, the petitioner filed this petition.

3. Heard the learned counsels on either side. Learned counsel for the parties submitted that they are agreeable for the appointment of 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 P. Shanmugam, a retired Judge of this Court, residing at New No.204, T.T.K. Road, Teynampet, Chennai-600 018 (Phone No.24993452), as the Sole Arbitrator to enter upon reference and adjudicate the disputes inter se 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

PUSHPA SATHYANARAYANA, J.

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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.

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30.07.2019



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