

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated :06.12.2019

Coram

THE HONOURABLE MR. JUSTICE M.SUNDAR

O.P.No.474 of 2019

S.John Paul @ Balaji

.. Petitioner

vs.

R.Chinnasamy Naidu

.. Respondent

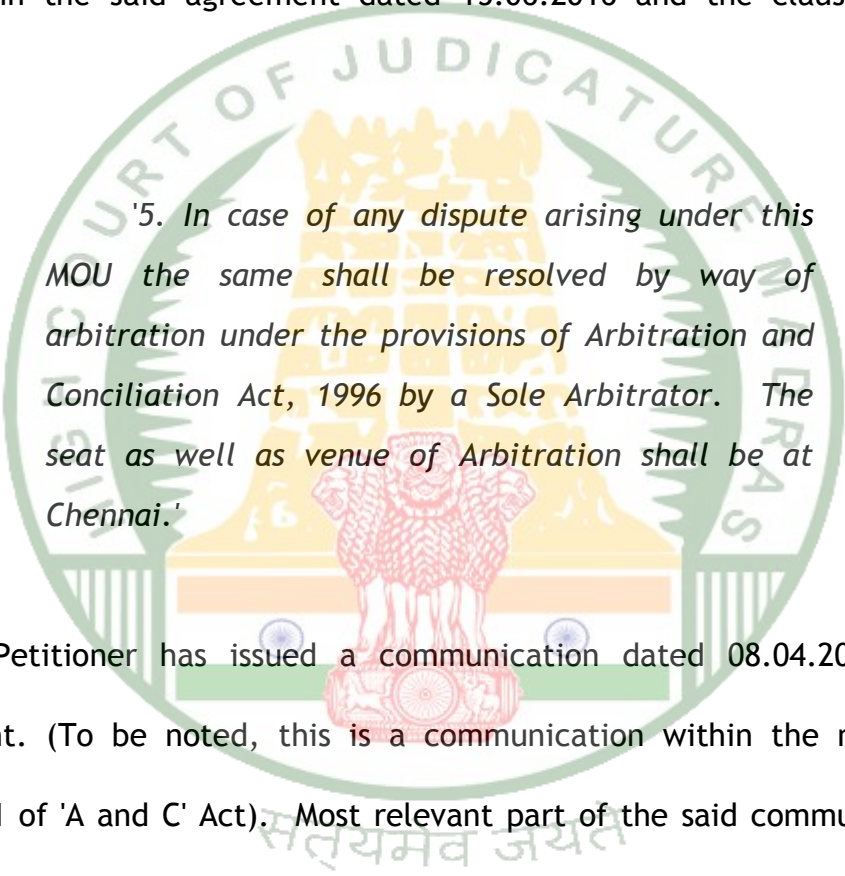
Original Petition filed under Section 11(6) of the Arbitration and Conciliation Act, 1996, a) appoint a sole arbitrator to enter upon reference and adjudicate the disputes between the petitioner and the respondent arising under the agreement dated 15.06.2016 and pass an award b) direct the respondent to pay the cost of the petition and c) pass such further or other orders as this Hon'ble Court may deem fit and proper in the circumstances of the case and render justice.

For Petitioner : M/s.S.Malar Mannan
Mr.P.Nagarajan

ORDER

Instant 'Original Petition' ('OP' for brevity) has been filed *inter alia* under Section 11 (6) of 'The Arbitration and Conciliation Act, 1996' ('A and C Act' for brevity) with a prayer for appointment of arbitrator qua arbitral disputes that

have arisen between the petitioner and the respondent with regard to a sale agreement dated 15.06.2016 (hereinafter 'said agreement' for the sake of brevity and clarity). This Court is informed that the arbitral agreement (within the meaning of Section 7 of the 'A and C' Act) between the parties is by way of a clause in the said agreement dated 15.06.2016 and the clause reads as follows:



'5. In case of any dispute arising under this MOU the same shall be resolved by way of arbitration under the provisions of Arbitration and Conciliation Act, 1996 by a Sole Arbitrator. The seat as well as venue of Arbitration shall be at Chennai.'

2. Petitioner has issued a communication dated 08.04.2019 to the respondent. (To be noted, this is a communication within the meaning of Section 21 of 'A and C' Act). Most relevant part of the said communication is the last paragraph and the same reads as follows:

'In the above circumstances, my client hereby invoke Clause 5 of the MOU dated 15.06.2016 and nominates Mr.A.Thiyagarajan, Retired Judge to act as a Sole Arbitrator to resolve the disputes arising

under the said agreement. My client hereby calls upon you to consent for the above nomination within 30 days from the date of receipt of this notice, failing which my client would be constrained to initiate appropriate proceedings for appointment of Sole Arbitrator with costs and consequences of such proceeding being solely that of yours'.

3. A perusal of the case file reveals that the aforesaid communication dated 08.04.2019 has been received by the respondent on 23.04.2019. It is submitted that there has been no reply or response from the respondent necessitating the filing of the instant O.P.

4. In the light of the narrative thus far, this O.P. is allowed and this Court appoints Mr.A.Thiyagarajan, Retd. District Judge, as Sole Arbitrator. The Name and address of the Sole Arbitrator is as follows:

*“Mr.A.Thiyagarajan, Retd. District Judge,
A-7, Mettupatti, Lalgudi Taluk,
Tiruchirappalli District,
Pincode - 621702”.*

5. The learned retired District Judge who has been appointed as Sole Arbitrator is requested to pass an award as expeditiously as possible in

accordance with 'A and C' Act. The arbitration proceedings shall be conducted under the aegis of the Madras High Court Arbitration Centre, Chennai - 600 104, in accordance with The Madras High Court Arbitration Proceedings Rules, 2017 and The Madras High Court Arbitration Centre (MHCAC) (Administrative Cost and Arbitrator's Fees) Rules, 2017. There shall be no order as to costs.

06.12.2019

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Speaking Order/Non-Speaking Order

Index : Yes/No

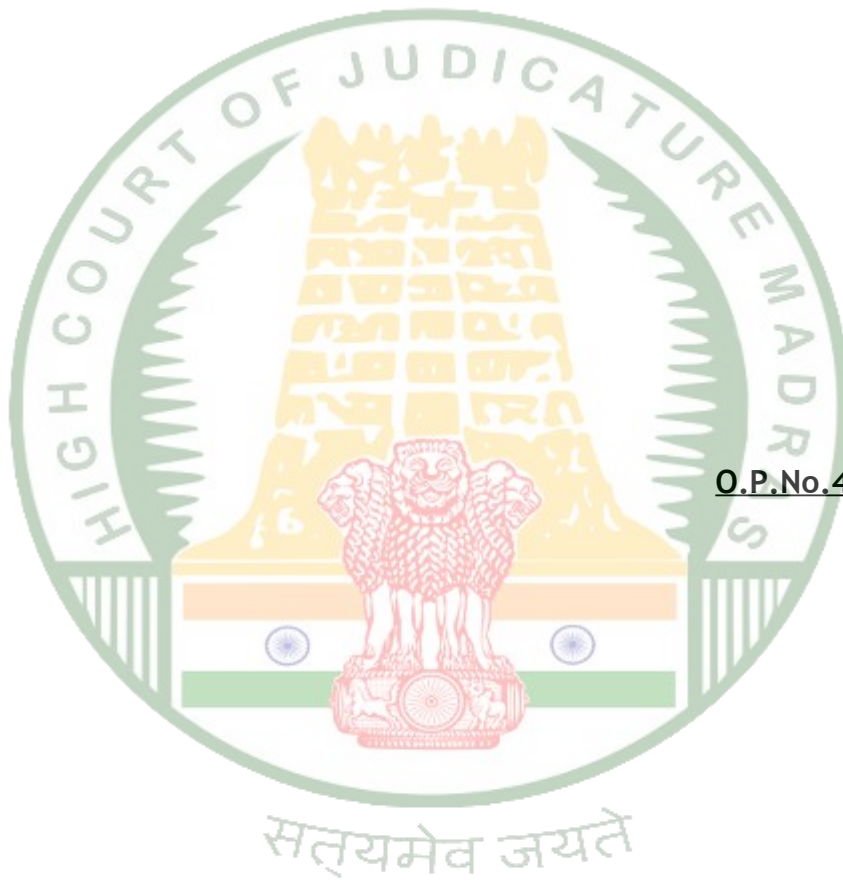
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M.SUNDAR.J.,

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