

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.07.2020

CORAM :

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

Original Petition No.71 of 2020

1.G.Saminathan,
Old No.2, New No.3,
13th Cross Street, Indira Nagar,
Chennai – 600 020.

2.S.Radhika Malini,
Old No.2, New No.3,
13th Cross Street, Indira Nagar,
Chennai – 600 020.

Both temporarily residing at
Flat No.231, Building No.109,
Street No.25, Block 4,
Mangaf, Kuwait.

Petitioners

versus

Barath Building Constructions
India Private Limited,
Rep. by its Managing Director,
No.20 (Old No.23/2),
Mylai Ranganathan Street,
T.Nagar, Chennai - 600 017.

Respondent

Prayer: Original Petition filed under Section 11(4) of the Arbitration and Conciliation Act, 1996, to appoint another Arbitrator who along with the Arbitrator appointed by the petitioners shall appoint the Presiding Arbitrator to adjudicate the claims of the petitioners arising out of the "Agreement for Joint Development" dated 23.05.2012 entered into between the petitioners and the respondent under the Arbitration and Conciliation Act, 1996.

For Petitioners : Mr.S.Ravi
For Respondent : Mr.Avinash Krishnan
for M/s. Hari Shankar Mani

ORDER

This Application has been filed to appoint another Arbitrator, who along with the Arbitrator appointed by the petitioners, shall appoint the Presiding Arbitrator to adjudicate the claims of the petitioners arising out of the "Agreement for Joint Development" dated 23.05.2012 entered into between the petitioners and the respondent.

2. Heard the learned counsel for the petitioners and the learned counsel for the respondent through video conferencing.

3. The learned counsel appearing for the petitioners submitted that in the Agreement for Joint Development, there is a clause which is agreed between the parties to refer the dispute to the Arbitrator. The learned counsel for the respondent submitted that the Agreement is insufficiently stamped and cannot be enforced.

4. In such view of the matter and having regard to the

Agreement for Joint Development dated 23.05.2012 entered into between the parties, it is ordered as follows:

5. Accordingly, it is ordered as follows:

i) Honourable Mr.Justice D.Murugesan, High Court Judge (Retired), residing at No.11-A, M.D.Sitaraman Avenue, 7th Cross Street, V.G.P.Layout, Injambakkam, Chennai - 600 115, Contact No.8826253366, is appointed as the Arbitrator to enter upon reference and adjudicate the disputes *inter se* the parties.

ii) 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. It is open to the respondent to raise all legal objections as to the validity of contract.

iii) The learned Arbitrator is at liberty to fix his remuneration and other incidental expenses as per law.

iv) The proceedings may be conducted under the aegis of the Madras High Court Arbitration Centre and in accordance with the Madras High Court Arbitration Rules.

N.SATHISH KUMAR, J.

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

20.07.2020

Speaking Order / Non-speaking Order

Index : Yes / No

Internet : Yes

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To

Mr.D.Murugesan,
High Court Judge (Retd.),
No.11-A, M.D.Sitaraman Avenue,
7th Cross Street,
V.G.P.Layout,
Injambakkam,
Chennai - 600 115.

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