

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.03.2020

CORAM

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

O.P.No.76 of 2019

C.Nathmal

.. Petitioner

Vs.

1.T.A.S.Ambi @ Gnanasundaram @ Ambiraj

2.A.S.Amala

3.Fifth Field Realtors Pvt. Ltd.,

Rep. by its Directors

Mrs.S.Sarada Sundaramurthi &

Mr.A.Riyaz Ahamed Khan,

No.5th square, No.1/1, TAS Enclave,
10th Main Road Extension, Anna Nagar,
Chennai - 600 040.

4.Mrs.S.Sarada Sundaramurthi

5.Mr.A.Riyaz Ahamed Khan

6.Mr.TAS Jayaramayya

7.Mr.TAS Rathnakumar

.. Respondents

(Respondents 6 and 7 brought on record
as legal heirs of the deceased first respondent
as per order dated 07.11.2019 in A.No.7173 of 2019)

Prayer : Petition filed under Section 11 (6) of the Arbitration and Conciliation Act, 1996, praying to appoint an Arbitrator to go into the dispute between the petitioner and the respondent in respect of Construction Agreement dated 15.09.2014.

For Petitioner : Mr.Ashwin Premsundar

For Respondents : No appearance for R1 and R2
Mr.S.Dinesh Kumar
for K.Mohan for R3 to R5

ORDER

The petitioner has filed this Original Petition to appoint an Arbitrator to go into the dispute between the petitioner and the respondents in respect of Construction Agreement dated 15.09.2014.

2. It is not disputed by the parties that the term agreement was entered between them on 15.09.2014. It is the case of the petitioner that he has paid one crore and despite the payment made, the flat was not handed over to him. In such circumstances, the petitioner has issued a letter dated 10.12.2018 for nomination of Arbitrator. However, the respondent has not come forward to solve the issue by appointing an arbitrator. Hence, the Original Petition.

3. In the counter affidavit filed by the respondents, the term agreement was not disputed. Only the actual dispute between the parties was mentioned therein.

4. The learned counsel appearing for the petitioner sought for appointing Arbitrator in order to resolve the dispute between them.

5. The learned counsel appearing for the respondents reiterated the facts in the counter. However, he also fairly conceded for appointing Arbitrator in this regard.

6. Considering the facts and circumstances, Mr.C.Manickkam, B.Sc., BL., District Judge (retired), Door No.22, 1st floor, Raj Enclave, Lakshmi Nagar, 6th street, Jalladianpet, Medavakkam, Chennai is appointed 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 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. The appointment of the Arbitrator will be subject to the disclosure and declaration made, as per the Sixth Schedule to the Arbitration and Conciliation Act, 1996 coupled with the amendments made therein.

7. The Original Petition is disposed of accordingly. The parties shall bear their own costs.

11.03.2020

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Index : Yes / No

Note : The registry is directed to communicate a copy of this Order to :

Mr.C.Manickkam, B.Sc., BL.,
District Judge (retired),
Door No.22, 1st floor,
Raj Enclave, Lakshmi Nagar,
6th street, Jalladianpet,
Medavakkam, Chennai.

N.SATHISH KUMAR, J.

mbi



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