

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date 02.09.2020

CORAM:

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

O.P.No.331 of 2020

M/s.Mahesemam Trust,
A-1, VIP Apartments,
Lake Area Main Road,
Uthangudi Post, Madurai – 625 107.

Rep. by its Trustee

Dr.Prabhu Vairavan Pragasam

... Petitioner

Versus

M/s.Kiara Microcredit Private Limited,
Flat No.G-1, VIP Apartments,
Lake Area Main Road, Melur Road,
Uthangudi – Madurai – 625 107.

... Respondent

PRAYER : Petition filed under Section 11(5) of Arbitration and Conciliation Act, 1996 to appoint a Sole Arbitrator and to refer all the disputes arising between the parties as per clause 5.02 of the agreement dated 15.03.2018 entered into between the petitioner and the respondent at Chennai.

For Petitioner

: Mr.K.Subramanian (SC)
for Mr.S.Punniyakotti

Respondents

: Mr.G.Vairava Subramanian

ORDER

This application has been filed to appoint a Sole Arbitrator and to refer all the disputes arising between the parties as per clause 5.02 of the agreement dated 15.03.2018 entered into between the petitioner and the respondent at Chennai.

2. Though various allegations have been denied in the counter, the respondent has not denied the governing clause for reference to the arbitrator. In the counter, the respondent has taken a stand that the arbitrator may be appointed with a seat at Madurai with regard to all the disputes in the agreement.

It is relevant to refer the relevant clause in the agreement entered between the parties on 15.03.2018.

“5.1 This Agreement shall be governed by and construed in accordance with the laws of India and the Courts in Madurai, India shall have the exclusive jurisdiction to entertain and dispose of any proceeding arising out of or from or touching this

Agreement.

5.2 Any dispute arising from any of the terms of this Agreement shall first be referred to the Arbitration by following the provisions of the Arbitration and Conciliation Act, 1996 and if either party is not satisfied with the decision of the Arbitral Award, the aggrieved party shall seek the remedy in a Court of Law having jurisdiction over the parties in Madurai.”

The above clause makes it very clear that the parties are governed by the contract and agreed for arbitration and the parties have agreed to submit to the exclusive jurisdiction to the Courts in Madurai.

Though it is the contention of the learned Senior Counsel for the petitioner that the agreement has been signed at Chennai, the fact remains that both the petitioner's and respondent's registered office situate at Madurai. When the parties have specifically agreed to have jurisdiction in the Courts situated at Madurai and their registered offices are also situated at Madurai, the contention of the learned

Senior Counsel that the Courts at Madurai has no jurisdiction cannot be countenanced. In the counter, the respondents have taken a specific stand to have arbitration seat at Madurai.

13. In such view of the matter, as the parties have agreed to submit to the jurisdiction of the Court at Madurai and the registered Office of the parties are also situate at Madurai, it is ordered as follows:

i) Hon'ble Mr.Justice K.Venkataraman, Former Judge, High Court of Madras, residing at L-Block, No.125, East Anna Nagar, Chennai - 600 102, Contact No.94443 90961, is appointed as the Arbitrator to enter upon reference and adjudicate the disputes *inter se* the parties. Both sides also consented to have Learned Arbitrator to resolve the issues.

ii) The learned Arbitrator appointed herein, shall 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.

iii) That the learned Arbitrator appointed herein shall be at liberty to fix his remuneration and other incidental expenses, which shall be borne by the parties equally.

iv) it is open to the arbitrator to conduct the proceedings through video conferencing also, taking note of the pandemic situation.

15. This Original Petition is ordered accordingly, leaving the parties to bear their own costs.

02.09.2020

Index : Yes / No
Internet: Yes
Speaking/non speaking order

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To

The Hon'ble Mr.Justice K.Venkataraman,
Former Judge, High Court of Madras,
L-Block, No.125,
East Anna Nagar,
Chennai - 600 102.

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N. SATHISH KUMAR, J.

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order in:

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