

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.07.2020

CORAM :

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

Original Petition No.695 of 2018

M/s.LVR Farms Private Limited,
Represented by its Managing Director,
L.R.Siva Prasad,
No.7, Seshadri Road,
Alwarpet, Chennai – 600 018. ... Petitioner

versus

M/s.Green Tree Homes and Ventures Private Ltd.,
Represented by its Director,
Dinesh Ethiraj,
No.13, Srimansrinivasan Road,
Alwarpet, Chennai – 600 018. ... Respondent

Prayer: Petition filed under Section 11(4) of the Arbitration and Conciliation Act, 1996, to appoint a Sole Arbitrator to resolve the dispute that has arisen between the petitioner and the respondent herein.

For Petitioner : M/s.Vasudha Thiagarajan
For Respondent : No Appearance

ORDER

This Petition has been filed seeking appointment of Sole Arbitrator to resolve the dispute that has arisen between the petitioner and the respondent.

2. Heard the learned counsel for the petitioner through video conferencing.

3. The learned counsel for the petitioner submitted that the Joint Development Agreement dated 30.09.2011 entered into between the petitioner and the respondent deals with the mutual obligations and duties of both the parties. He further submitted that Clause 26 of the Joint Development Agreement dated 30.09.2011, deals with dispute resolution, which reads as follows:

"26.1. If any dispute arises, the affected party shall give notice to the other for resolution of the dispute. The parties agree to use reasonable efforts to resolve such dispute equitably and in good faith and settle the same amicably in a spirit of co-operation."

4. Similarly, Clause 26.2. of the said Agreement deals with Arbitration, which is extracted hereunder:

"If the dispute cannot be amicably settled within 30 days from the date of receipt of the notice, either party shall refer the

dispute to the Arbitration of a Sole Arbitrator. If the parties fail to agree on the choice of the Sole Arbitrator, then each party shall appoint an Arbitrator and the two Arbitrators so appointed shall appoint a third Arbitrator for Arbitration of the disputes. The Arbitrator/s may seek the assistance of experts on any particular issue. The Arbitration proceedings shall be conducted under the Arbitration and Conciliation Act, 1996 as amended from time to time, and the same shall be held in Chennai. The language of the proceedings shall be English."

5. Since the dispute had arisen between the parties, the petitioner issued notice to the respondent. Despite notice served and the respondent's name has been printed in the cause list, none appeared for him.

6. In such view of the matter and having regard to the Agreement dated 30.09.2011 entered into between the parties, it is ordered as follows :

i) Honourable Mrs.Justice R.BANUMATHI, Judge (Retired)

Supreme Court of India, Flat No.1N, Kgeyes Eternity, Parvati Street, Kalashetra Colony, Besant Nagar, Chennai - 600 090, Contact Nos.7042955477, 7397329476, 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.

iii) The learned Arbitrator is at liberty to fix her remuneration and other incidental expenses.

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.

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

सत्यमेव जयते

22.07.2020

sri

To

Honourable Mrs.Justice R.BANUMATHI,
Judge (Retired) Supreme Court of India,
Flat No.1N, Kgeyes Eternity,
Parvati Street, Kalashetra Colony,
Besant Nagar, Chennai - 600 090.

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N.SATHISH KUMAR, J.

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