

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.08.2020

CORAM :

THE HONOURABLE MR. JUSTICE N.SATHISH KUMAR

O.P.No.851 of 2019

M/s.Sundaram Business Services Limited,
Having its registered office at
No.21, Patullos Road, Chennai 600 002.
rep.by its authorised signatory,
Mr.I.S.Suresh

... Petitioner

Vs.

Aqua Pure Plus Private Ltd.,
No.16/148, V.V.Koil Street,
Thiruvalliswarar Nagar,
Thirumangalam,
Anna Nagar, Chennai 600 040.

... Respondent

PRAYER: Petition filed under Section 11(6) of Arbitration and Conciliation Act, 1996 praying to appoint Mr.K.S.Gouthaman, Advocate New No.49, 224-B, 4th cross street, Natesa Nagar, Virugambakkam, Chennai as an arbitrator as per the provisions of the arbitration & conciliation act 1996, so as to adjudicate the dispute and claim between the petitioner and the respondent under the Service agreement dated 14.08.2012 and the addendum dated 25.10.2013 and to pay the cost of the petition.

For Petitioner : Mr.R.Uma Shankar

ORDER

This petition has been filed to appoint Mr.K.S.Gouthaman, Advocate as an arbitrator as per the provisions of the Arbitration & Conciliation Act 1996, so as to adjudicate the dispute and claim between the petitioner and the respondent under the service agreement dated 14.08.2012 and the Addendum dated 25.10.2013 and to pay the cost of the petition.

2. The learned counsel appearing for the petitioner submitted that despite nominating arbitrator on the side of the petitioner, the respondent has not nominated its arbitrator as per the terms of the contract or replied. The petitioner issued notice dated 03.12.2018 on the respondent performing its obligation under the agreement, nominated Mr.K.S.Gouthaman, Advocate as an arbitrator. Hence it is his contention that since the respondent has not performed its obligation of appointing its arbitrator, as per the law laid down by the Hon'ble Apex Court, the right of the respondent to nominate its arbitrator stands waived and prays to appoint Mr.K.S.Gouthaman, Advocate as an arbitrator.

3. Despite notice served and name printed in the cause list none appeared on behalf of the respondent. The respondent has failed to exercise their right to appoint an Arbitrator despite service of notice. The petitioner by exercising their right nominated Mr.K.S.Gouthaman, Advocate as an arbitrator, whereas the respondent has not replied nor nominated its arbitrator as per the terms of the contract. There is no impediment for appointing an arbitrator as nominated by the

petitioner. Therefore this Court, appoints Mr.K.S.Gouthaman, Advocate New No.49, 224-B, 4th cross street, Natesa Nagar, Virugambakkam, Chennai as the Sole Arbitrator to enter upon the reference and 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 shall fix the remuneration as per the schedule of the Act, which shall be borne by the parties equally.

4. The original petition is, accordingly, allowed, leaving the parties to bear their own costs.

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Index: Yes/No

Internet : Yes/No

Speaking order/Non speaking order

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N.SATHISH KUMAR, J.

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