

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.02.2021

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

OP.No.115 of 2018

Adarsh Ship Management (P) Ltd
Represented by K.V.R. Srinivas,
Managing Director,
No.02/377, First Floor,
Mugallivakkam Road,
Near Ramachandra Colony,
Manapakkam, Chennai - 600 116.

...Petitioner

Vs

Global Express Lines Pvt. Ltd.
Represented by Executive Director, D.Gopi,
No.93/45, Armenian Street,
S.M. Plaza, 1st Floor, Room No.3, Chennai -1.

... Respondent

Prayer : Original Petition filed under Section 11 (6) of the Arbitration and Conciliation Act, 1996 praying to appoint a sole arbitrator to adjudicate upon the differences and disputes between the parties.

For Petitioner : Mr. G. Viswanathan

For Respondent : sole respondent - set ex parte.

ORDER

This petition is filed under Section 11 (6) of the Arbitration and Conciliation Act for appointing a sole arbitrator to adjudicate the disputes that have arisen between the parties. The respondent had been set ex parte by orders of this Court dated 29.01.2021.

2. It is the case of the petitioner that the petitioner and the respondent had entered into a Memorandum of Understanding dated 19.01.2011 for Technical and ISM Management. Under the terms of the Memorandum of Understanding, the respondent was required to pay the petitioner Crew Management Fee every month to the tune of Rs.1,00,000/- exclusive of taxes. This appointment was suppose to commence from June 2011. The Memorandum of Understanding also contemplates an increment in the monthly Crew Management Fee. However, contrary to the assurance, amounts have not been paid and a sum of Rs.37,82,280/- remained outstanding. Despite, repeated requests, the money was not forthcoming. Therefore, the petitioner had terminated the contract vide their notice dated

14.10.2011 and contemplated the payment of the outstanding.

3. The petitioner had filed OA.No.841 of 2011 under Section 9 of the Arbitration and Conciliation Act against the respondent and interim order was granted thereafter. The respondent had filed A.No.5179 of 2011 to vacate the interim order of injunction. Thereafter, on hearing the parties this Court directed the respondent to pay a sum of Rs.10,00,000/- by way of bank guarantee favouring Registrar General of this Hon'ble High Court. This order has been complied with by the respondent. However, thereafter no further amounts have been paid by the respondent. Clause No.16.3 of the Memorandum of Undertaking contemplated resolution of disputes through Arbitral proceedings. The petitioner therefore sent a legal notice dated 06.06.2016 nominating a sole Arbitrator. Even to this, there was no response thereby constraining the petitioner to move this Court.

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4. Considering the fact that the parties have agreed to resolve their

disputes through Arbitration proceedings, since the respondent by not making payment and contesting the Section 9 application filed by the applicant, disputes have arisen between the parties.

5. Accordingly, it is ordered as follows:

(i) Mr. Yashod Vardhan. R, Senior Advocate, 155, Linghi Chetty Street, III Floor, Chennai - 600 001, Cell- 9841075397, Email: yashodvardhan@gmail.com, 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.

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

09.02.2021

mrn

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



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P.T.ASHA, J.

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To,
Mr. Yashod Vardhan. R,
Senior Advocate, 155,
Linghi Chetty Street,
III Floor, Chennai - 600 001,
Cell- 9841075397,
Email: yashodvardhan@gmail.com.

2. Adarsh Ship Management (P) Ltd
Represented by K.V.R. Srinivas,
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Near Ramachandra Colony,
Manapakkam, Chennai - 600 116.

3. Global Express Lines Pvt. Ltd.
Represented by Executive Director, D.Gopi,
No.93/45, Armenian Street,
S.M. Plaza, 1st Floor, Room No.3, Chennai - 1.

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16.02.2021