



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

TUESDAY, THE 3rd DAY OF AUGUST 2021

THE HON'BLE MR. JUSTICE N.SATHISH KUMAR

O.P. No.358 of 2020

In the matter of section 11 of the
Arbitration and Conciliation Act of
1996

And

In the matter of the Arbitration
Agreement contained in Clause 15 of
Sale Agreement dated 12th July 2018.

P. Velmurugan
S/o. Palaniappan
Door No.12/13,
14, Devanna Gounder Street,
Irugur
Coimbatore 641 013.

... Petitioner

Vs

Sri Ambal Mills Limited
rep. by its Director
Mr.C.Divakar Menon
Kamanaickenpalayam Road
Somanur, Palladam Taluk
Tirupur District.

... Respondent

Original Petition praying that this Hon'ble Court be pleased to
appoint a suitable person conversant with disputes pertaining to
construction contracts as Sole Arbitrator to decide the disputes which have
arisen between the petitioner and respondent under the Sale Agreement



This Original Petition coming on this day before this court for hearing in the presence of Mr.S.Mukunth, Advocate for the petitioner herein and Mr.VJayachandran for M/s.V.Jayachandran & Associates, Advocates for the respondent herein and upon reading the petition and the Affidavit of C.Divakar Menon @ C D menon filed herein,

it is ordered as follows:-

That Hon'ble Mr.Justice P.Shanmugam (Retd.), No.204 (288/B), TTK Road, Parthasarathy Garden, Teynampet, Chennai 600 118 (Mobile No.9444373369), be and is hereby appointed as a Sole Arbitrator to enter upon reference and adjudicate the matter.

2) That 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.

3) That the learned Arbitrator appointed herein, shall be paid fees and other incidental charges, fixed by him and the same shall be borne by the parties equally.

4) That both parties hereto shall bear their own costs.



5) That the Registry, be and is hereby directed to return the agreements filed by the petitioner as well as by the respondent herein, after taking photo copies of the same, so that the same shall be placed before the learned Arbitrator appointed herein.

WITNESS THE HON'BLE MR. JUSTICE SANJIB BANERJEE,
CHIEF JUSTICE, HIGH COURT AT MADRAS AFORESAID, THIS THE
03rd DAY OF AUGUST 2021.

Sd./-

ASSISTANT REGISTRAR (O.S.II)

//Certified to be true copy//

Dated at Madras this the day of 2021.

COURT OFFICER(O.S.)

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KY-26/08/2021

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O.P.No.358 of 2020

ORDER

DATED: 03.08.2021

THE HON'BLE MR. JUSTICE
N.SATHISH KUMAR

FOR APPROVAL: 27.08.2021

APPROVED ON : 31.08.2021

Copy to:

The Hon'ble Mr.Justice
P.Shanmugam (Retd.),
Arbitrator,
No.204 (288/B), TTK Road,
Parthasarathy Garden,
Teynampet, Chennai 600 118
(Mobile No.9444373369).

(With covering letter)



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 3/8/2021

C O R A M

THE HONOURABLE Mr.JUSTICE N.SATHISH KUMAR

O.P.No.358 of 2020

P. Velmurugan

...

Petitioner

Vs

Sri Ambal Mills Limited
rep. by its Director
Mr.C.Divakar Menon
Kamanaickenpalayam Road
Somanur, Palladam Taluk
Tirupur District.

...

Respondent

Original Petition has been filed under Section 11 (6) of the Arbitration and Conciliation Act, 1996, to appoint a suitable person conversant with disputes pertaining to construction contracts as Sole Arbitrator to decide the disputes which have arisen between the petitioner and respondent under the Sale Agreement dated 12/7/2018.

For petitioner

...

Mr.S.Mukunth

For respondent

...

Mr.V.Jayachandran
for

M/s. V.Jayachandran & Associates

- - - - -

ORDER

This Original Application has been filed to appoint a Sole Arbitrator

to decide the disputes which have arisen between the petitioner and



respondent, under the Sale Agreement, dated 12/7/2018.

WEB COPY

2. Heard Mr.S.Mukunth, learned counsel for the petitioner and Mr.V.Jayachandran for Mr.V.Jayachandran & Associates for the respondent.

3. It is the contention of the learned counsel for the petitioner that agreement for sale was entered into between the parties. As the transaction could not be completed within time, as agreed in the above agreement, another agreement was entered into between the parties, on 12/7/2018. Clause 15 of the contract makes it very clear that in the event of any dispute between the parties, the same may be referred to the Arbitrator.

4. The learned counsel appearing for the respondent would submit that after cancellation and handing over the original agreement, dated 12/7/2018, the petitioner by suppressing the said fact, filed the instant Original Petition, seeking an appointment of an arbitrator, emphasising the final part of the contractual terms, in Clause 15, which is not legally maintainable.

5. Much emphasis was made on the basis of the documents said to have been cancelled. On a perusal of the documents placed before this Court, Theory of cancellation is highly improbable. If really such documents relating to the advance amount of Rs.1,50,00,000/- has been

cancelled, normal prudence of the man or parties would be to get



endorsement or signature in that regard, whereas nothing is found except the pages were scored off. Therefore, this Court is of the prima facie view that cancellation of document cannot be accepted at this stage. The very cancellation also denied by the petitioner by filing an affidavit.

6. In such a view of the matter, Mr.Justice P.Shanmugam, is appointed as an Arbitrator to enter upon reference and adjudicate the matter.

7. Accordingly,

i) Mr.Justice P.Shanmugam (Retd.), No.204 (288/B), TTK Road, Parthasarathy Garden, Teynampet, Chennai 600 118 (Mobile No.9444373369) is appointed as a Sole Arbitrator to enter upon reference and adjudicate the matter.

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] The learned Sole Arbitrator appointed herein shall be paid fees and other incidental charges, fixed by him and the same shall be borne by the parties equally.



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

9. Agreements filed by the petitioner as well as by the respondent are ordered to be returned to them, so that the same can be placed before the learned Arbitrator and it is also made clear that before returning the copies, Registry is directed to take photo copies of the same.

Sd./-N.S.K.J,
03.08.2021

//Certified to be true copy//

Dated at Madras this the day of 2021.

COURT OFFICER(O.S.)

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