

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

WEDNESDAY, THE 22ND DAY OF SEPTEMBER 2021

THE HON'BLE MR. JUSTICE N.SATHISH KUMAR

Arb. Appln. No.3 of 2021

In the matter of Arbitration &
Conciliation Act, 1996

and

In the matter of Services Agreement
dated 09.08.2019.

Mr. Rajesh Kumar G,
S/o. Ghewarchand Marlecha,
No. 13/29, Balamuthu Street,
Ellis Road, Mount Road,
Anna Salai,
Chennai – 600 002.

...Applicant

Vs.

1. M/s. Zolostays Property Solutions Private Limited,
Rep. By its Vice President,
Mr. Sampath Selvan,
1190, 22nd Cross Road, Sector 3, HSR Layout,
Bengaluru, Karnataka – 560 102.

2. HDFC Bank,
Empire Infantry Road Branch,
Rep. By its Manager,
29, Empire, Infantry Road,
Bengaluru – 560 001.

...Respondents

Arbitration Application praying that this Hon'ble Court be pleased to
direct the 1st Respondent to furnish security for a sum of Rs.13,99,887/-

(Rupees Thirteen Lakhs Ninety Nine Thousand Eight Hundred and Eighty Seven only) before this Hon'ble court, failing which attach the bank account of the 1st Respondent in the 2nd Respondent bank, in A/c.No.50200022420330 to the tune of Rs.13,99,887/- morefully described under the Schedule.

This Arbitration Application coming on this day before this court for hearing in the presence of Mr.T.Mohan for M/s. Vijayalakshmi K.Rajaratnam, Advocates for the Applicant herein, and Mr.Vikram Veerasamy, Advocate for the 1st respondent herein and Mr.C.Mohan for M/s. King & Partridge, Advocates for 2nd respondent herein and the counter affidavit of Jesil Thonnam Thodi filed herein and upon reading the order herein dated 22.07.2021 and the counsel for the applicant having submitted that final settlement would be for a sum of Rs.11.5Lakhs, but, this offer is not accepted by the counsel for the first respondent and the learned counsel appearing for the respondent submitted that, since it is accepted by the first respondent for settlement only to the tune of Rs.10,34,731/-, this amount can be adjusted from the deposited amount of Rs.14,00,000/- before this court and for the remaining amount, the dispute may be referred to an Arbitrator and hence, he prayed for appointing an Arbitrator and the learned counsel for the applicant has also no objection for appointment of arbitrator

for the remaining amount this Court doth recording the said submissions and this court having observed that there is no dispute with regard to the amount of Rs.10,34,731/- between the parties and considering the fact that already a sum of Rs.14,00,000/- has been deposited before this court by the second respondent and it is ordered as follows:-

That Mr.S.Namasivayam, Advocate, W-302, 19th Street, Anna Nagar Western Extension, near SBOA Matriculation School, Chennai 600 101, Mobile 9841033400 is 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 Sole Arbitrator appointed herein shall fix his fees and other incidental charges and the same shall be borne by the parties equally.

4. That till the Arbitration Proceedings is over, the deposited amount

of Rs.14,00,000/- shall be kept in the interest bearing deposit.

5. That both parties hereto shall bear their own costs.

WITNESS THE HON'BLE MR. JUSTICE SANJIB BANERJEE,
CHIEF JUSTICE, HIGH COURT AT MADRAS AFORESAID, THIS THE
22ND DAY OF SEPTEMBER 2021.

Sd/-

ASSISTANT REGISTRAR (Comm. Cases)

//Certified to be true copy//

Dated at Madras this the day of 2021.

COURT OFFICER(O.S.)

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EVK

30/09/2021

Arb. Appln. No.3 of 2021

ORDER

DATED: 22.09.2021

THE HON'BLE MR. JUSTICE
N.SATHISHKUMAR

FOR APPROVAL: 01/10/2021

APPROVED ON : 04/10/2021

Copy to:

1. Mr.S.Namasivayam, Advocate,
Arbitrator
W-302, 19th Street, Anna Nagar
Western Extension, near SBOA
Matriculation School, Chennai 600
101, Mobile 9841033400.

2.The Registrar General
High Court, Madras

3. Accounts Section

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

WEDNESDAY, THE 22ND DAY OF SEPTEMBER 2021

THE HON'BLE MR. JUSTICE N.SATHISH KUMAR

Arb. Appln. No.3 of 2021

In the matter of Arbitration &
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and

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2. HDFC Bank,
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Rep. By its Manager,
29, Empire, Infantry Road,
Bengaluru – 560 001.

...Respondents

Arbitration Application praying that this Hon'ble Court be pleased to
direct the 1st Respondent to furnish security for a sum of Rs.13,99,887/-
(Rupees Thirteen Lakhs Ninety Nine Thousand Eight Hundred and Eighty

Seven only) before this Hon'ble court, failing which attach the bank account of the 1st Respondent in the 2nd Respondent bank, in A/c.No.50200022420330 to the tune of Rs.13,99,887/- morefully described under the Schedule.

This Arbitration Application coming on this day before this court for hearing the court made the following order:-

This application has been filed to direct the first respondent to furnish security for a sum of Rs.13,99,887/- before this court, failing which attach the bank account of the first respondent in the second respondent bank in A/c No.50200022420330 to the tune of Rs.13,99,887/- more fully described in the schedule.

2. Heard the learned counsel for the applicant and the learned counsel for the first respondent.

3. The dispute is with regard to the quantum of amount. Further, as per the order of this court dated 02.07.2021, the second respondent had deposited a sum of Rs.14,00,000/- before this court vide Demand Draft dated 12.07.2021.

4. It is the contention of the first respondent that, though the first respondent admitted that their liability is only for a sum of Rs.9,34,731/-, now, the first respondent offered settlement for a sum Rs.10.34,731/- Lakhs.

5. Per contra, the counsel for the applicant submitted that final settlement would be for a sum of Rs.11.5Laks. But, this offer is not accepted by the counsel for the first respondent.

6. The learned counsel appearing for the respondent submitted that, since it is accepted by the first respondent for settlement only to the tune of Rs.10,34,731/-, this amount can be adjusted from the deposited amount of Rs.14,00,000/- before this court and for the remaining amount, the dispute may be referred to an Arbitrator and hence, he prayed for appointing an Arbitrator.

6. The learned counsel appearing for the applicant has also no objection for appointment of Arbitrator for the remaining amount.

7. The submissions made by both the counsels are recorded. Both the counsels made their consent to appoint Mr.S.Namasivayam, Advocate as sole Arbitrator.

8. Since there is no dispute with regard to the amount of Rs.10,34,731/- between the parties and considering the fact that already a sum of Rs.14,00,000/- has already been deposited before this court by the second respondent, it is ordered as follows:

i] that Mr.S.Namasivayam, Advocate, W-302,
19th Street, Anna Nagar Western Extension, near
SBOA Matriculation School, Chennai 600 101, Mobile

9841033400 is appointed as a Sole Arbitrator to enter upon reference and adjudicate the matter.

ii] 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.

iii] That the learned Sole Arbitrator appointed herein shall fix his fees and other incidental charges and the same shall be borne by the parties equally.

iv) Till the Arbitration Proceedings is over, the deposited amount of Rs.14,00,000/- shall be kept in the interest bearing deposit.

9. This Arbitration Application is ordered accordingly, leaving the parties to bear their own costs.

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

22/09/2021

//Certified to be true copy//

Dated at Madras this the day of 2021.

COURT OFFICER(O.S.)

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