

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.01.2021

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

OP.No.552 of 2020

and

A.No.2755 of 2020

M/s. Gallante Promoter LLP
Having its Registered Office at
NPL, Fifth Floor, 11, L.B. Road,
Thiruvanmiyur,
Chennai - 600 041.
Represented by its
Authorised Signatory.

...Petitioner

Vs

M/s. Devinarayan Housing and
Property Developers (P) Ltd.,
No.2, Link Street, II Floor,
IV Main Road,
Kottur Garden
Chennai - 600 085.

... Respondent

Prayer : Petition filed under Section 11(4) of the Arbitration and Conciliation Act, 1996 praying to pass an order to constitute an Arbitral Tribunal to resolve the dispute that has arisen between the petitioner and the respondent herein in relation to the Agreement of Sale 24.11.2016 as entered into between the petitioner and the respondent.

For Petitioner : Mr. R. Thiagarajan
For Respondent : M/s. Shivakumar & Suresh

ORDER

Both parties consented to have the matter delegated to the arbitral proceedings.

2. Mr. R. Thiagaragan appearing for the applicant would submit that a Retired District Judge may be appointed as a Sole Arbitrator though the Arbitral Agreement contemplates an Arbitral Tribunal consisting of three Members.

3. M/s. Shivakumar & Suresh appearing for the respondents have no objection to the above.

4. Accordingly, it is ordered as follows:

(i) Mr. P. Rosaiah, District & Sessions Judge (Retd), F-157, 5th

Street, Anna Nagar East, Chennai - 102, Mobile NO 9444493626, E-mail-gputtu@yahoo.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.

5. Meanwhile, the respondents had filed an affidavit of undertaking dated 18.01.2021 wherein they have made the following undertaking:

" The respondent hereby undertakes that it shall not sell the Schedule property for an extent of 15.625 cents out of the 3.00 acres of the Schedule Property which will safeguard the alleged claim of the applicant for an extent of Rs.1.25 crores for a period of 6 months from the date of this undertaking, unless the matter is amicably resolved or the arbitration proceedings are commenced. This undertaking is without prejudice to the contentions of the respondent in the arbitrations, including maintainability of the said application and the right to make such counter claim as this respondent may be advised in this regard. Since the applicant has not yet furnished a copy of the

*registered agreement to us, it may be directed to
furnish the same to us within 1 month."*

6. Recording the above undertaking, the application is closed.

7. The undertaking shall be in effect till the disposal of the Arbitral proceedings. The learned counsel also undertakes to file a memo that though the arbitral clause contemplates an Arbitral Tribunal consists of three Members, they are ready and willing to have a sole Arbitrator appointed to hear the disputes.

8. The Original Petition is accordingly ordered with a direction to the respondents to file the memo on or before 29.01.2021.

22.01.2021

mrn

Index : Yes/No

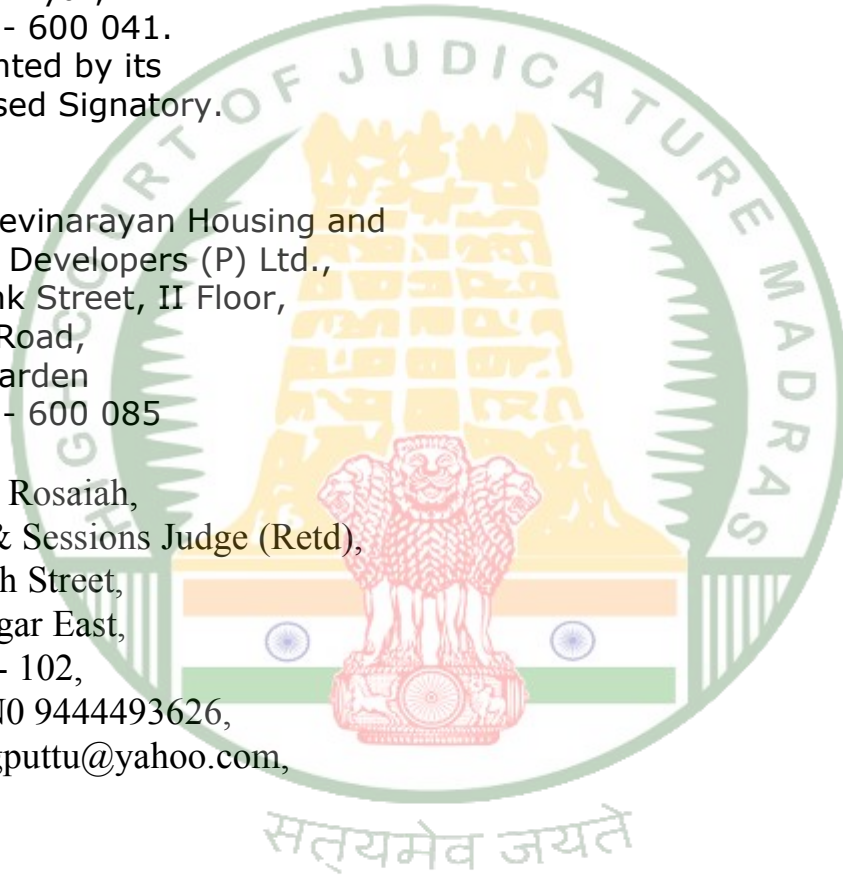
Speaking order/non-speaking order

To

1. M/s. Gallante Promoter LLP
Having its Registered Office at
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Chennai - 600 041.
Represented by its
Authrorised Signatory.

2.M/s. Devinarayan Housing and
Property Developers (P) Ltd.,
No.2, Link Street, II Floor,
IV Main Road,
Kottur Garden
Chennai - 600 085

3. Mr. P. Rosaiah,
District & Sessions Judge (Retd),
F-157, 5th Street,
Anna Nagar East,
Chennai - 102,
Mobile NO 9444493626,
E-mail- gputtu@yahoo.com,



N.B: The memo as directed has also been filed on 27.01.2021.

WEB COPY

P.T.ASHA, J.

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