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IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

WEDNESDAY, THE 09TH DAY OF MARCH 2022

THE HON'BLE MR. JUSTICE M.SUNDAR

ARB O.P(COM.DIV.) No.99 of 2022

In the matter of Arbitration and
Conciliation Act, 1996
and
In the matter of Arbitration
Agreement of Dispute between
Mrs.K.Rubina and other partners of
M/s.Flying Horse Pictures in
relation to the Partnership
Agreement dated 3.11.2019 and
subsequent Reconstitution
of Partnership deed dated
04.02.2020

MRS. K.RUBINA, Age 34
W/O. KOLANCHIAPPAN,
Permanent address at No.394/NA,
South West Street, Kilamangalam (PO),
Orathanadu Taluk, Thanjavur - 614615
at present residing at P.O.Box No.1160,
Postal Code 112, Ruwi,
Sultanate of Oman,
Represented by her Power of Attorney

Mrs. N.Sudha, Age 44,
W/o.Late Mr.V.Nehru,
No.2/91A, South Mullur,
Mullurpattikadu,
Thanjavur

..Petitioner



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1. MR.S.HARI BASKARAN, Age 46

S/o. Sampath Kumar,
S Tower 403, Metrozone, No.44,
Pillaiyar Koil Street,
Anna Nagar, Chennai – 600 040

2. MRS. B.SANGEETHA, Age 32

W/o. Balachandar,
No.27, A3, Aston Villa, Kumaran Colony,
1st Street, Vadapalani,
Chennai - 26

3. MR.K.BALACHANDAR, Age 38

S/o.A.Kothandapani,
No.27, A3, Aston Villa, Kumaran Colony,
1st Street, Vadapalani,
Chennai - 26

4. M/S. FLYING HORSE PICTURES,

Represented by its partner Mr.S.Haribhaskaran,
Flat No.403, Metrozone, No.44,
Pillaiyar Koil Street, Anna Nagar,
Chennai – 600 040

..Respondents

Arbitration Original Petition (Commercial Division) praying that this Hon'ble court be pleased to appoint an arbitrator to decide the dispute between the petitioner and the respondents, in respect of rendering proper accounts and profit arising out of the partnership deed dated 03.11.2019 and the reconstruction deed dated 04.02.2020.

This Arbitration Original Petition (Commercial Division) coming on this day before this court for hearing the court made the following order:



the sake of convenience and clarity] has been presented on 10.02.2022 in this Court.

2. Mr.A.K.Jayaraj, learned counsel for sole petitioner submits that the captioned Arb OP is predicated on clause 22 of a document captioned 'RECONSTITUTION OF PARTNERSHIP DEED' dated 04.02.2020. To be noted, this document dated 04.02.2020 shall hereinafter be referred to as 'primary contract' for the sake of convenience and clarity. This Clause 22 is at page No.15 of the typed set of papers and the same reads as follows:

'(22) That all disputes and questions in connection with the partnership or this deed arising between the partners or between any one of them or their legal representatives and whether during or after the partnership, shall be referred to the arbitrator in accordance with the provisions of the Arbitration and Conciliation Act, 1996 then in force.'

3. Learned counsel submits that a trigger notice dated 15.04.2021 (page No.16 of the typed set of papers) was issued *inter alia* to four respondents as arbitrable disputes erupted qua the aforementioned primary contract. The trigger notice met with a reply dated 27.04.2021 (page No.31 of the typed set of papers) sent by seven of the noticees. Adverting to the reply notice, learned counsel submits that the existence of the aforementioned arbitration clause is not disputed. Learned counsel also



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submits that the aforementioned clause 22 in primary contract serves as an arbitration agreement between the parties in the captioned Arb OP i.e., arbitration agreement within the meaning of Section 2(1)(b) read with Section 7 of 'The Arbitration and Conciliation Act, 1996 (Act No.26 of 1996)' [hereinafter 'A and C Act' for the sake of convenience and clarity].

4. *Prima facie* case made out for issue of notice.

5. Issue notice to respondents returnable in four weeks i.e., returnable by 06.04.2022. Private notice permitted. Notice through all available electronic modes of communications (subject of course to proof being demonstrated) also permitted.

6. List on 06.04.2022.

Sd/.M.S.J.
09.03.2022

//Certified to be a true copy//

Dated at Madras this the day of 2022.

SU./04.04.2022

COURT OFFICER(O.S.)

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