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IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

TUESDAY, THE 07TH DAY OF JUNE 2022

THE HON'BLE MR. JUSTICE M.SUNDAR

ARB .O.P(COM.DIV.) No.206 of 2022

In the matter of Sections 11 of the
Arbitration and Conciliation Act,
1996

and

In the matter of disputes arising out
of Joint Venture Agreement Dated
16.02.2012

SHANKAR KARIKAR
No.24, Bawa Road,
Alwarpet, Chennai – 600 018.
Represented by his Power Agent,
Mr. A.Rajkumar

..Petitioner

-Vs-

1. KARPAGAM
2. PRAVEEN JEEVA,
3. HARINI,
All residing at No.59,
Perumal Koil Street,
Puducherry - 605001.
4. CHITHRA,
5. ASHWIN KRISHNARAJ,
6. MONISHA PRAKASH,
All residing at, No.S1,
Lotus Apartments, 12A,



12th Cross Street,
Dhandeswan Nagar,
Velacherry, Chennai – 600 042

..Respondents

Arbitration Original Petition (Commercial Division) praying that
this Hon'ble court be pleased to

a) To appoint an arbitral tribunal, in accordance with the
provisions of the Arbitrator and Conciliation Act, 1996 to adjudicate upon
the disputes / differences between the Petition and Respondent under the
contract

b) To direct the respondent to pay the cost of this proceeding.

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

Read this in conjunction with and in continuation of earlier
proceedings made in previous listing on 28.04.2022 which reads as follows:

*'When the matter was taken up, Ms.Ashwini
Vaidialingam, learned counsel for petitioner submits that post
presentation of captioned Arb.OP in this Court on 30.03.2022,
there has been some communication from some of the
respondents necessitating filing of an additional typed set of
papers. Learned counsel submits that additional typed set of
papers has been filed in the Registry today. Learned counsel*



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requests for time to bring it on Board.

2.List immediately after summer vacation. List on 07.06.2022.'

2.Today Mr.Arun Karthik Mohan, learned counsel on record for the petitioner who is before this Court submits that reply to the trigger notice [trigger notice dated 11.02.2022] being reply dated 31.03.2022 from respondents 4 to 6 [through counsel] has since been filed and brought on Board by way of additional typed set of papers which is before this Court.

3.Be that as it may, learned counsel submits that the captioned Arb.OP has been presented in this Court on 30.03.2022 under Section 11 of The Arbitration and Conciliation Act, 1996 (Act No.26 of 1996)' [hereinafter 'A and C Act' for the sake of convenience and clarity] with a prayer for appointment/constitution of an Arbitral Tribunal.

4.It is submitted that the nucleus of the captioned matter is a 'Joint Venture Agreement' ('JVA' for the sake of brevity) dated 16.02.2012 between the petitioner and one Mr.V.K.Prakash (hereinafter 'Primary Contract' for the sake of clarity) to develop land admeasuring 45000 sq.ft or thereabouts in Puducherry (belonging to Mr.V.K.Prakash) inter alia by putting up residential apartments therein. It is submitted that the



construction has been completed but the said Mr.V.K.Prakash died on 12.02.2021. Thereafter, the petitioner is facing difficulty in carrying the primary contract to its logical end owing to dissensions and disagreements between the legal heirs of late Mr.V.K.Prakash. Owing to unfortunate demise of Mr.V.K.Prakash, notice was issued to all his legal heirs. This course was adopted owing to Section 40 of A and C Act is the learned counsel's say. This notice dated 11.02.2022 shall hereinafter be referred to as 'trigger notice' for the sake of convenience.

5.As alluded to supra, the aforementioned trigger notice met with a reply dated 31.03.2022 [reply through counsel from respondents 4 to 6]. There is no response or reply from respondents 1 to 3 is learned counsel's say.

6.Learned counsel draws the attention of this Court to Clause 17 of Primary Contract which reads as follows:

'17. In the event of any dispute arising between the Parties or as the case may be which could not be resolved mutually in respect of the interpretation, operation, enforcement of the terms of this agreement or in any manner related to performance of the respective obligation to the parties herein the same shall be referred to a Sole Arbitrator.'



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7.The aforementioned clause 17 of the Primary Contract serves as an arbitration agreement i.e., arbitration agreement within the meaning of Section 2(1)(b) read with Section 7 of A and C Act is the learned counsel's further say.

8.It is also pointed out that in the aforementioned reply dated 31.03.2022, respondents 4 to 6 have not disputed the existence of the arbitration agreement vide unnumbered paragraph 2 of the reply.

9.In the light of the narrative thus far, prima facie case for issuance of notice made out. Issue notice to the respondents returnable by a fortnight i.e., returnable by 21.06.2022. Private notice is also permitted.

List on **21.06.2022**.

Sd/.M.S.J.
07.06.2022

//Certified to be a true copy//

Dated at Madras this the day of 2022.

SU/15.06.2022

COURT OFFICER(O.S.)