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Arb.O.P.(Comm.Div.) No.124 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.11.2022

CORAM

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

Arb.O.P.(Comm.Div.) No.124 of 2022

M/s.The Waterbase Limited
A Company registered under the
Companies Act, 1956
Represented by its Authorized Signatory
Mr.R.Arunkumar having
registered Office and factory at
Ananthapuram Village, Thotapalli
Gudur Mandal, Nellore District 524 344
And Corporate Office at No.37, Montieth Road,
Egmore, Chennai 600 008.

... Petitioner

vs.

Mr.Shaik Ibrahim, S/o.Mr.Shaik Meeravali
Proprietor Vali Aqua Needs & Cable Network
No.1/49, TP Gudem Road, B/s Sub Post Office
Penumantra, West Godavari District
Andhra Pradesh 534 124.

Also At
Mr.Shaik Ibrahim, S/o.Mr.Shaik Meeravali
Proprietor Vali Aqua Needs & Cable Network
No.4/88, Old Market Street,
Penumantra, West Godavari District,



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Andhra Pradesh 534 124.

... Respondent

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PRAYER: Arbitration Original Petition filed under Section 11(6) of the Arbitration and Conciliation Act, 1996, pleaded to appointing a Sole Arbitrator to decide the commercial dispute between the petitioner and the respondent in terms of the dealership agreement dated 23.08.2017 and as per clause 55 of the dealership agreement, appointing an arbitrator under the provisions of the Indian Arbitration and Conciliation Act, 1996.

For Petitioner : Mr.S.A.Rajan

For Respondent : No Appearance

ORDER

The petitioner seeks the constitution of an arbitral tribunal to adjudicate the disputes arising out of a dealership agreement.

2. Learned counsel for the petitioner invited my attention to the



dealership agreement dated 23.08.2017 between the petitioner and the respondent in the capacity of sole proprietor of Vali Aqua Needs and Cable Network. In particular, he relied on clause 55 of the said agreement, which is set out below:

"Arbitration - Any disputes, differences or question which, may arise at any time hereafter between TWL and the Dealer touching the true construction of this Agreement or the rights and liabilities of the parties hereto, or to the operation of this Agreement, such dispute or difference shall be referred by either party to arbitration by an arbitrator to be appointed by TWL, under the provisions of the Indian Arbitration and Conciliation Act, 1996, as amended from time to time, for the time being in force or any other act passed in substitution thereof or modification thereof, and for the time being in force, and the provisions shall apply to such arbitration accordingly. The venue of arbitration shall be Chennai."

3. He also pointed that notice dated 09.01.2021 was issued to the



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respondent under Section 21 of the Arbitration and Conciliation Act, 1996.

By such notice, the respondent was informed about the total claim of Rs.62,49,533.50/-.

4. By order dated 10.10.2022, learned Master has recorded that notice was effected on the respondent through paper publication. In spite of service of notice and the name of the respondent being printed in the cause list, there is no representation for the respondent. As such, there is no impediment in proceeding with this matter in the absence of the respondent.

5. The agreement between the parties clearly provides for the resolution of disputes by arbitration. The venue of arbitration is fixed at Chennai. Therefore, this Court is vested with jurisdiction to hear this petition. The petition was preceded by a notice under Section 21 of the Arbitration Act. In spite of taking steps to serve the said notice, the said notice appears to have been returned "unserved". In these circumstances, the petitioner is entitled to succeed.



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6. Accordingly, Arb.O.P.(Comm.Div.) No.124 of 2022 is allowed by appointing Mr.Rohan George, Advocate, No.24, East Club Road, Shenoy Nagar, Chennai - 600 030, Mobile No.9710286750, as the sole arbitrator. The sole arbitrator is called upon to enter upon reference and adjudicate the dispute. The fees and expenses for the arbitral proceedings shall be fixed by the arbitral tribunal in consultation with the parties.

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Index : Yes / No

Internet : Yes / No



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