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Arb.O.P.(Comm.Div.) No.261 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.11.2022

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THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

Arb.O.P.(Comm.Div.) No.261 of 2022

Mr.P.Ravi Rajan

... Petitioner

VS.

1. Mrs.R.Bhanumathy
2. Ms.R.Sharadha Priya Vardhini
3. Ms.R,Keerthana

... Respondents

PRAYER: Arbitration Original Petition filed under Section 11(6) of the Arbitration and Conciliation Act, 1996, pleased to (a) appoint a Sole Arbitrator to enter upon reference and adjudicate the disputes between the petitioner and the respondent arising under the agreement dated 22.03.2019 and pass an award; and (b) direct the respondent to pay the cost of the petition.

For Petitioner : M/s.S.Ramesh

For Respondents : M/s.S.P.Meenakshi Sundaram



ORDER

WEB COPY Based on the arbitration clause in a sale agreement dated 22.03.2019, the petitioner seeks the constitution of an arbitral tribunal.

2. The petitioner states that the sale agreement was entered into between the petitioner and the late Mr.P.B.Rajasekhar, who was the husband of the first respondent and father of the second and third respondents. The petitioner cites clause 3 of the said agreement, which is set out below:

“3. If any of the parties fail to honor the terms of this agreement, the disputes shall be resolved by Sole Arbitrator, who shall be nominated either by consent or through process of law as mandated by Madras High Court.”

3. Upon disputes arising, the petitioner issued a notice to the respondents herein in view of the death of Mr.P.B.Rajasekhar on 10.04.2021. Since the said notice did not elicit the expected response, the arbitration clause was invoked under notice dated 04.12.2021. By reply



dated 22.12.2021, the respondents denied their liability primarily on the ground that the transaction between the petitioner and the late Mr.P.B.Rajasekhar was a loan transaction and that the relevant loan was fully discharged. The respondents further contend that the sale agreement is not valid and binding inasmuch as the signatures of the late Mr.P.B.Rajasekhar thereon were obtained on blank sheets of paper.

4. The sale agreement is on record and clause 3 thereof provides for resolution of disputes by arbitration. In a Section 11 petition, a trial cannot be conducted to determine the validity of the sale agreement. Whether the signatures were obtained on blank sheets of paper and whether the transaction was a loan, which had been disguised as a sale, are matters to be determined by the arbitral tribunal. Since the respondents are Class I legal heirs of the late Mr.P.B.Rajasekhar, *prima facie*, they are the successors-in-interest of all rights, obligations and liabilities under the sale agreement.

5. By leaving it open to the parties to raise all the aforesaid contentions before the arbitral tribunal, this petition is allowed by



Arb.O.P.(Comm.Div.) No.261 of 2022

appointing Mr.D.Arul Raj, a retired District Judge, No.27, 1st Main Road, Sairam Nagar, Medavakkam, Chennai-600 100, Mobile Nos.9444145289 & 9884845289, as the sole arbitrator. The sole arbitrator is called upon to enter upon reference and adjudicate the dispute. The fees and expenses in relation to the arbitral proceedings shall be fixed by the arbitrator in consultation with the parties.

24.11.2022

Index : Yes / No

Internet : Yes / No

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Arb.O.P.(Comm.Div.) No.261 of 2022

SENTHILKUMAR RAMAMOORTHY, J

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Arb.O.P.(Comm.Div.) No.261 of 2022

24.11.2022