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Arb. O.P. No. 508 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.12.2022

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THE HONOURABLE MR. JUSTICE KRISHNAN RAMASAMY

Arb. O.P(Com.Div). No.508 of 2022

K.R.Geetharamani

... Petitioner

Vs.

A.Xavier

... Respondent

PRAYER : Original Petition is filed under Section 11(5) of the Arbitration and Conciliation Act, 1996, praying to appoint the Sole Arbitrator to resolve the disputes between the parties.

For Petitioner : Mr.F.Willington

For Respondent : Mr.B.Thirumalai

ORDER

This Original Petition has been filed seeking for appointment of Sole Arbitrator to constitute the Arbitral Tribunal to resolve the dispute that have arisen between the petitioner and the respondent.



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2. According to the petitioner, the petitioner and the respondent entered into a partnership deed dated 13.08.2020 to start Company in the name and style of M/s. Ayani Healthcare. Subsequent to the formation of the partnership firm, she invested a sum of Rs.20,00,000/- and the respondent invested only a sum of Rs.50,000/-. When the petitioner enquire about the accounts, the respondent will never provide any details, whereas, he used to say that the firm is running under loss. Therefore, the petitioner lodged a complaint against the respondent before the Commissioner of Police, Chennai. After the enquiry of the said complaint, the respondent agreed to provide the books of accounts. But, till date the petitioner has not received any books of accounts. Thereafter, without any other option, he sent notice dated 26.05.2022 for appointment of Sole Arbitrator to adjudicate the present dispute. However, the respondent has not provided any consent and therefore, the present application has been filed.

3. Learned counsel appearing for the respondent would submit that the respondent has also invested money and there is counter claim against the petitioner and the petitioner is liable to pay the same.



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“14. Disputes, if any, arising among the partners or their legal representatives regarding interpretation of this Deed or in relation to any other manner whatsoever touching the partnership affairs shall be referred to arbitration under the Indian Arbitration Act 1940, in force for the time being.”

5. In terms of Clause 14 of the partnership deed dated 13.08.2020, in order to resolve the present dispute, the petitioner has sent a notice dated 11.07.2022 to appoint the Sole Arbitrator. However, there was no reply from the respondent. Learned counsel appearing for the respondent just made a submission that the respondent has counter claim and he stated that he has no objection to appoint the Arbitrator. Hence, this Court is inclined to appoint the Sole Arbitrator, in terms of Clause 14 of the partnership deed dated 13.08.2020.



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6. Accordingly, this Court passes the following order:

(i) Mr.R.Balachandran, Chartered Accountant, residing at Flat 3B, 3rd Floor, III Block, Bajaj Apartments, 4, Nandanam Extn 1st Main Road, Nandanam, Chennai 600035 Contact No.9884350000, is appointed as sole arbitrator to enter upon reference and adjudicate the disputes *inter se* the parties.

(ii) That the learned Arbitrator appointed herein, shall 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.

(iii) That the learned Sole Arbitrator appointed herein shall be paid fees and other incidental charges, fixed by him and the same shall be borne by the parties equally.

iv) In case the respondent does not turn up and participate in the adjudication, the petitioner shall pay the entire remuneration and other incidental charges at first, and recover the same from the respondent.



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7.This Original Petition is ordered accordingly, leaving the parties to bear their own costs. Since this Court has appointed an Arbitrator, it is open to the petitioner as well as the respondent to seek other reliefs under the provisions of Arbitration and Conciliation Act 1996 before the Arbitrator. The learned Arbitrator shall decide the matter on merit without being influenced by any of the observations made by this Court.

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KRISHNAN RAMASAMY, J.
rst

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