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Arb O.P.(Com. Div.)No.261 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 01.03.2022

Coram

THE HONOURABLE MR. JUSTICE M.SUNDAR

Arb O.P.(Com. Div.)No.261 of 2021

A.Anandhan,
Proprietor,
M/s.Sri Ranga Real Estate
37/7, 2nd Floor G Towers,
Near Collector Office,
Lotus Shopping Centre Backside,
Perundurai Road, Erode 638 001.

... Petitioner

vs.

A.Govidasamy,
S/o.(Late) Ayyasamy.

... Respondent

Prayer:

Arbitration Original Petition filed under Section 11(6) of the Arbitration and Conciliation Act, 1996, to

a) Appoint an arbitrator to adjudicate the disputes between the petitioner and the respondent in terms of the arbitration agreement in respect of the Letter of Consent dated 08.10.2021 which is a part and parcel of the Agreement for purchase of site 07.10.2015.

b) Direct the respondent to pay costs.



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For petitioner : Ms.S.Tamil Selvi.

For respondent : Mr.V.Achuthanandan

ORDER

Captioned Arb.OP has been presented in this Court on 28.10.2021 under Section 11(6) of 'The Arbitration and Conciliation Act, 1996 (Act No.26 of 1996)', which shall hereinafter be referred to as 'A and C Act' for the sake of brevity with a prayer for appointment of an Arbitrator to adjudicate the arbitral disputes that have erupted between the petitioner and respondent qua an agreement for sale (sale of a site) dated 07.10.2015.

2. It will suffice to say that the petitioner is the proposed vendor and respondent is the agreement holder qua 07.10.2015 agreement for sale of a site. It may not be necessary to dilate more on facts owing to the limited scope of captioned Arb.OP. Suffice to say that disputes center around sale transaction not being completed by paying the balance. The petitioner caused a legal notice dated 04.06.2021 to be issued to the respondent together with a Form like consent letter calling upon the noticee / respondent to consent for resolving the disputes by arbitration. The respondent has



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signed the letter of consent. The 04.06.2021 legal notice and 08.10.2021 letter of consent are as follows:

M. HEMASREE, B.Com, LL.B., P.G.Dipln - CYBER LAW & IT, PM & R, ADVT
Advocate High Court - MADRAS
Chamber No.155, New Additional Law Chambers, High Court Building High Court, Chennai - 600 004.
Address for Communication: No. 14/1, Kumbakonam Road, Veda Street, GRT, Chennai - 600 065. Cell: 9443283003

Legal Notice Served through SPAD

By/LN/0000055RR/2021

To:

A. Govindarajan
CHITRA/AN/43, HSR Nagar
K.M. Kunal Street, Coimbatore
Chennai - 600 020
Cell: 9442441200

Sir/Madam

Under instructions from my client Mr.A.Arundhan, the sole proprietor of M/s. Sri Ranga Real Estate, having its administrative office at No.37/7,G-Tower, 2nd floor, Backside Lotus Shopping Centre, Pennindurai Road, Erode - 636011 and residing at No.62/1, Main Street Thottipalayam, Nalliyannur, Erode District, Erode - 638 107,

I trigger this legal notice to you.

1. My client is engaged in real estate business activity since 10 years and has purchased rough land and developed it in to sites and of 1000 Nos at Erode and sold them all in a very smooth and very systematic manner.
2. My client states that he has purchased land and developed them in to sites in Tiruppur District of about 10.50 acres situated at No.10, Poncupalayam village, Avinashi Taluk, Tiruppur District and named it as Vijaya Garden and developed them in to sites of 203 Nos in the 1st phase and 142 Nos in 2nd phase.
3. My client states that you had showed interest to buy site(s) from his Vijaya Garden and entered / executed a Receipt stamp paper bearing No.19AB220329 with SRI RANGA REAL ESTATE- WHERE THE SITE IS TITLED AS VIJAYA GARDEN, an Agreement of purchase of site (s) No.18,19,27,28 dated 09/10/2016, by advancing an amount of Rs.5,00,000/- and subsequently, paid Rs.30,000/- to register the site(s) in your name within the specified time limitation of 18 months from the date of execution of the above said agreement.
4. My client also states that in the above said agreement, it is clearly mentioned that in case if you have failed to pay the balance amount to Mr.A.Arundhan, the sole proprietor within the specified time limit the above agreement automatically stands cancelled and the advance given by you will also be forfeited.
5. My Client states that you have signed the agreement after reading the full agreement and its contents and terms and conditions, and with mutual consent.
6. My client also states that in the said agreement it is clearly stated that " IN CASE YOU HAVE NOT REGISTERED THE SITE ON YOUR NAME BY PAYING THE BALANCE AMOUNT, THE SITE AGREED TO BE SOLD TO YOU WILL BE COLLECTED FROM THE SAID AGREEMENT" for which also you have agreed and signed and executed the agreement with Mr.A.Arundhan.

COPIES:



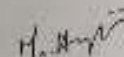
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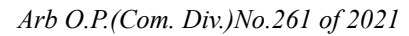
7. My client stated that he has given you time extension for over 4 times on your request and placed suit. Unfortunately you had to deni kept up your promise by dragging the deal by citing some reason or other. Hence, you failed to make the balance payment and to keep up the promise as agreed in the above said Agreement.
8. My client also states that he has sold the site to the other person by informing you as my client is per to a great loss and hardships just because he had been considerate to your request.
9. My client states that after a period of 5 years you claiming of the site(s) from my client is mischievous and non maintainable in law.
10. My client states that you and your handmen tormenting my client, and his wife/family and his office staffs by going to their residential office and phone to chase them in person and through phone and using filthy languages and intimidating of my client and his wife to face dire consequences etc. In legal, legal and criminal activity in the wake of law.
11. My client also states that, how much ever he is resisting you politically, you are unworriedly tormenting upon him and threatening to kill him and his family, and continue to give mental harassment, trauma, humiliations, and spoiling his business and family image etc., even that you are forcing my client and his wife to commit suicide, which is punishable under 306 IPC for 10 years and under other applicable sections under IPC, which please note.
12. My client states that, even though you give lot of troubles to him as explained above as he is a law abiding citizen and human he has approached High Court Madras and filed a Original Petition Under No. OP (SR) 44814/2021 seeking appointment of Arbitrator or High Court Mediator to resolve the issue amicably and mutually beneficial, such that the issue between you and my client can be legally resolved once and for all.

Therefore, I hereby call upon you on behalf of my client stop illegal and criminal activities and to come forward to resolve the issue between you and my client for the benefit of both. In case, you are interested to resolve the issue in a legitimate legal way, you may give your work/stance within a week from the receipt of this notice to signing the consent letter enclosed along with this notice and counter to us. In case, you do not want to settle the issue between you and my client you may send a reply stating that you are not interested in legal settlement and thus you are not consenting to sign the enclosed consent letter then you can settle the issues only through appropriate civil court of law and send your dissent letter to us. **RESIST FROM YOUR UNLAWFUL OR DEED ENTRY AT HIS OFFICE, SITE, RESIDENCE AND STOP ALL THE ILLEGAL METHODS THAT YOU HAVE BEEN ADOPTING AS NOTED ABOVE in order to avoid criminal proceedings against you, failing which my client has no other option except to approach the appropriate legal forums of law both in civil and criminal in prospect of your cost and consequences thereof.**


Advocate
Pr.3840200000

End: A) Consent Letter by Advocate/Notary Public, High Court
B) Dissent Letter by Advocate/Notary Public, High Court

CC: 1) To, The Additional Director of Police, Traffic and Offence Wing, Chennai
2) To, The Superintendent of Police, Thiruvallur
3) To, The Superintendent of Police, Eudha
4) To, The Collector, Regional Police Station, Chennai
5) To, The Director, DMCO, Chennai, Chennai.



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I, Mr. M. Marudai B. Govindaraj or late Rajeswari
residing presently at No. Old 270 Street - 43, N.G.R. Nagar
5, M. G. Road, K. J. Nagar, Palayamkottai, C.B.T. 28
herby, accord my own consent for ARBITRATION & HIGH COURT
MEDIATION, as I and our self is truly interested in resolving the issue between
as Mr. A. Anandhan, the sole proprietor of M/S. Sri Ranga Real Estate, situated at
No. 177, G-Tower, 2nd Floor, Backside Lotus Shopping Centre, Perundurai Road,
Erode - 636011, which has cropped up vide the agreement for purchase of site(s)
that I ~~we~~ have executed with Mr. A. Anandhan on Rs.20 Stamp paper bearing
stamp paper No. 19AR28329 dated 07/07/15

Contact No. 944244205.

PLACE: Kadayampalayano, CBE, 6/10-28
DATE: 8-10-2021.

Note: Only fill and sign the document

<https://www.mhc.tmgov.in/judis>



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a prayer for appointment of an Arbitrator. This Court is informed that this OP was returned for objections on 14.06.2021. Petitioner has taken back the case papers but has not chosen to re-present the same until today.

4. Be that as it may, learned counsel for petitioner Ms.S.Tamil Selvi, who is before this Court, who is also the counsel on record in O.P (SR)44884 of 2021 has today made an endorsement in this case file which reads as follows:

'Diary No. OP/44884/2021 will not be pressed'

5. That draws the curtains on O.P (SR) 44884 of 2021. In the captioned Arb.OP there is no dispute or disagreement about the aforementioned legal notice dated 04.06.2021 being caused to be issued by the petitioner and the letter of consent dated 08.10.2021 signed by the respondent (to be noted, both have been scanned and reproduced elsewhere supra in this order). This means that there is no dispute or disagreement about the existence of an arbitration agreement. This Court reminds itself that captioned Arb.OP is one under Section 11 of A and C Act and therefore, legal perimeter is drawn and defined by sub-section (6A) of Section 11. This legal perimeter talks about this Court being satisfied about the existence of an arbitration agreement. This has now come to stay in litigation parlance as



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Mayavati Trading principle being ratio laid down by Hon'ble Supreme Court in **Mayavati Trading Private Limited Vs. Pradyut Deb Burman** reported in **(2019) 8 SCC 714**. Relevant paragraph is paragraph 10 and the same reads as follows:

'10. This being the position, it is clear that the law prior to the 2015 Amendment that has been laid down by this Court, which would have included going into whether accord and satisfaction has taken place, has now been legislatively overruled. This being the position, it is difficult to agree with the reasoning contained in the aforesaid judgments, as Section 11(6-A) is confined to the examination of the existence of an arbitration agreement and is to be understood in the narrow sense as has been laid down in the judgment in Duro Felguera SA.'

(underlining made by this Court to supply emphasis and highlight)

6. In the light of the narrative thus far, this Court deems it appropriate to appoint Mr.Mohammed Fayaz Ali, Advocate, residing at No.17, GA, Landmark Building, Sait Colony 1st Street, Egmore, Chennai - 600 008 [Mob: 98410 91222, Ph: 044-2819 1222, E-mail: adv.fayaz@ymail.com]. Learned Arbitrator is requested to adjudicate upon the arbitrable disputes that have erupted between the petitioner and respondent qua aforementioned agreement for sale dated 07.10.2015 in the 'Arbitration and Conciliation



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Centre under the aegis of this Court' (MHCAC) in accordance with the Madras High Court Arbitration Proceedings Rules, 2017 and Hon'ble Arbitrator's fee shall be as per Madras High Court Arbitration Centre (MHCAC) (Administrative Cost and Arbitrator's Fees), Rules 2017.

Captioned Arb.OP is disposed of in the aforesaid manner. There shall be no order as to costs.

01.03.2022

Speaking/Non-speaking order

Index : Yes / No

Internet : Yes / No

gpa

Note: Registry is directed to communicate a copy of this order forthwith to

1. Mr.Mohammed Fayaz Ali, Advocate,
No.17, GA, Landmark Building,
Sait Colony 1st Street,
Egmore, Chennai - 600 008
[Mob: 9841091222, Ph: 044-28191222],
E-mail: adv.fayaz@ymail.com.

2. The Director
Tamil Nadu Mediation Council Centre
-cum- Ex-Officio Member
Madras High Court, Arbitration Centre
Chennai - 104



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