



Arb.O.P.(Comm.Div.) No.567 of 2022

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SENTHILKUMAR RAMAMOORTHY, J.

Learned counsel for respondents 1 to 3 points out that the fourth and fifth respondents are admittedly not parties to the partnership deed dated 19.03.1998 or the arbitration clause contained therein. Therefore, he raises the preliminary objection that the said respondents be deleted from the array of parties.

2. Learned counsel for the petitioner states that the fourth respondent is a necessary party. For such purpose, he refers to correspondence relating to the initial freezing of the bank account of the partnership firm in the fourth respondent bank and the subsequent de-freezing thereof.

3. Unless there is an arbitration agreement between the parties to the Section 11 petition, in terms of Section 2(a) read with Section 7 of the Arbitration and Conciliation Act, 1996, the dispute cannot be referred to



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arbitration. In *Deutsche Post Bank Home Finance Ltd. -vs- Taduri*

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Sridhar, (2011)11 SCC 375, the Supreme Court held that non parties to the Section 11 petition should be deleted from the array of parties before passing orders therein or it should be clarified that they will not be parties to the arbitration. In view of the admitted position that the fourth respondent bank and its Bank Manager / fifth respondent are not parties to the arbitration agreement, they are directed to be deleted from the array of parties. The Registry is directed to delete the said respondents from the array of parties before issuing the order copy in the Section 11 petition, which is being disposed of by a separate order today.

26.10.2022

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Note: Issue Order copy on 28.10.2022

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