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Arb.O.P.(Com. Div.)Nos.569 & 570 of 2022

0IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.11.2022

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THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

Arb.O.P.(Com. Div)Nos.569 & 570 of 2022

1.A.Krishnaswamy
2.A.Somasundaram
3.A.Shanmugasundaram
4.A.Sivamani

... Petitioners
in both OPs

vs.

Whilehouse Residencies India Pvt. Ltd.
Represented by its Managing Director,
Mr.D.Ramachandra Prabhu,
aged about 52 years,
Son of Mr.A.M.Devraj,
60-B, Scott Villas,
Thudiyalur Road, Chinnavedampatti,
Behind Raman Mayuri,
Coimbatore-641 049.

... Respondent in
both OPs

PRAYER in Arb.O.P.No.569 of 2022: Original Petition filed under
Section 11(6) of the Arbitration and Conciliation Act 1996 read with Rule
2 of the Appointment of Arbitrators of the Madras High Court Scheme,
1996 pleased to appoint an arbitrator as per terms set out in Section 11(6)(a)

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of the Arbitration and Conciliation Act, 1996 to decide the dispute between the petitioners and the respondent arising out of a Joint Development Agreement dated 10.08.2015.

PRAYER in Arb.O.P.No.570 of 2022: Original Petition filed under Section 11(6) of the Arbitration and Conciliation Act 1996 read with Rule 2 of the Appointment of Arbitrators of the Madras High Court Scheme, 1996 pleaded to appoint an arbitrator as per terms set out in Section 11(6)(a) of the Arbitration and Conciliation Act, 1996 to decide the dispute between the petitioners and the respondent arising out of a Joint Development Agreement dated 10.07.2014.

For Petitioners : Mr.Sharath Chandran
(in both O.Ps)

For Respondent : Mr.Deivanandam
(in both O.Ps)

COMMON ORDER

The petitioners seek constitution of arbitral tribunals to resolve disputes arising out of two joint development agreements. Although there are separate agreements with separate arbitration clauses, the parties are common. Clause 8 (e) of the agreements are cited as providing for dispute resolution through arbitration. The said clause is set out below:

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“e. In the event of any doubts, difference and dispute and in the interpretation or the development or any matter concerning this agreement of the schedule property or any claim arising under this agreement, the same shall be referred to a Arbitrator who is mutually agreed by both the Owners and developers. The Arbitrator shall have the discretion to determine the cost of arbitration and to apportion the cost between the parties to the arbitration. Coimbatore shall be the Jurisdiction for deciding any legal disputes.”

2. Before these petitions were filed, a notice dated 08.07.2022 was received from the respondent invoking the arbitration clause but the parties could not reach an agreement on the choice of arbitrator.

3. Learned counsel for the respondent admits that there is an arbitration agreement between the parties and, therefore, submits that the respondent has no objection to the formation of an arbitral tribunal by this Court. Learned counsel for the petitioners suggested that Mr. Justice K.Kannan, retired Judge, may be appointed as sole arbitrator. The respondent is agreeable to the said proposal.



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4. Therefore, Arb.O.P.(Com. Div.) Nos.569 & 570 of 2022 are allowed by appointing Mr.Justice K.Kannan, (Retd.), former Judge of this Court and Punjab and Haryana High Court, residing at New No.3, Old No.11, Lakshmi Colony, North Crescent Road, T.Nagar, Chennai-600 017, Mobile: 97800 08145, 044-28154145, 044-48687374 email:kannan@madhyastham.com as the sole arbitrator. The sole arbitrator is requested to enter upon reference and adjudicate the disputes. The arbitral tribunal may decide whether it is appropriate to hold common hearings either by consolidating the references or otherwise. The fees and expenses in relation to the arbitral proceedings shall be decided in consultation with the parties.

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Index : Yes

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SENTHILKUMAR RAMAMOORTHY, J

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