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IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

THURSDAY, THE 31ST DAY OF MARCH 2022

THE HON'BLE MR. JUSTICE M. SUNDAR

O.P.No. 230 of 2017

and

A.No. 1693 of 2017

O.P.No. 230 of 2017 :-

In the matter of Section 34 of the
Arbitration & Conciliation Act, 1996

And

In the matter of disputes arising out of
the Comprehensive Architectural
Services Agreement dated 15/07/2008

And

In respect of the Arbitral Award dated
30/11/2016.

BETWEEN :

Centre for Development of Advanced Computing

Tidel Park, 8th Floor, D-Block, (North & South),

No.4, Rajiv Gandhi Salai,

Taramani, Chennai – 600 113.

Represented by its Director.

... Petitioner

AND

Mr. Xavier Benedict,

Sole Proprietor,

M/s. Anameka Architects & Designers,

No.35/18, Pushpa Nagar Main Road,

Mahalingapuram, Nungambakkam,

Chennai – 600 034.

... Respondent



Original Petition praying that this Hon'ble Court be pleased to

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a) Set aside the Arbitral Award dated 30/11/2016 passed by the Learned Arbitrator.

b) Award Costs of the proceedings to the Petitioner.

A.No. 1693 of 2017 :-

Centre for Development of Advanced Computing

Tidel Park, 8th Floor, D-Block, (North & South),

No.4, Rajiv Gandhi Salai,

Taramani, Chennai – 600 113.

Represented by its Director.

... Applicant/Petitioner

-Vs-

Mr. Xavier Benedict,

Sole Proprietor,

M/s. Anameka Architects & Designers,

No.35/18, Pushpa Nagar Main Road,

Mahalingapuram, Nungambakkam,

Chennai – 600 034.

... Respondent/Respondent

Application praying that this Hon'ble Court be pleased to stay the Award dated 30/11/2016 passed by the Learned Arbitrator pending disposal of the above Original Petition.

This Original Petition along with the application coming on this day before this Court for hearing in the presence of Mr.R.Arvind For

M/s Menon, Karthik, Mukundan and Neelakantan (Law Firm), advocates



for the petitioner in O.P.No. 230 of 2017 and for the applicant in A.No. 1693 of 2017 and Mr. G. Ashokapathy for M/s. Pass Associates, Advocates for the respondent in O.P.No. 230 of 2017 and A.No. 1693 of 2017 and upon reading the petition and the award dated 30/11/2016 and the memorandum compromise dated 31/03/2022 filed in O.P.No. 230 of 2017 and the Judges Summons and the affidavit of L.R.Prakash, filed in A.No.1693 of 2017 and Memorandum of Compromise signed by the petitioner and the respondent with their respective Advocates and the said advocate for the parties hereto, and both the counsel make a request that the captioned main O.P can be disposed of as settled out of Court as there is full satisfaction qua impugned award and parties have no claim against each other, **It is ordered as follows:-**

That the O.P.No. 230 of 2017 and A.No. 1693 of 2017 be and are hereby disposed of as closed having been settled out of Court.

2. That it is made clear that this order shall not be construed as modifying the impugned award.

3. That it is only an order of closure of captioned main OP and captioned application there at recording the stated position of the parties which has been reduced to writing and articulated in the aforementioned



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4. That there shall be no order as to costs.

WITNESS THE HON'BLE MR. JUSTICE MUNISHWAR NATH
BHANDARI, CHIEF JUSTICE, HIGH COURT AT MADRAS
AFORESAID, THIS THE 31ST DAY OF MARCH 2022.

Sd/-

ASSISTANT REGISTRAR (O.S-II)

//Certified to be true copy//

Dated at Madras this the day of 2022.

COURT OFFICER(O.S.)

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11.04.2022

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O.P.No. 230 of 2017
and
A.No. 1693 of 2017

ORDER

DATED : 31.03.2022

THE HON'BLE MR. JUSTICE
M. SUNDAR

FOR APPROVAL : 12.04.2022

APPROVED ON : 12.04.2022



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 31.03.2022

CORAM

THE HONOURABLE Mr.JUSTICE M.SUNDAR

O.P.No.230 of 2017

and

A.No.1693 of 2017

in

O.P.No.230 of 2017

Centre for Development of Advanced Computing
Tidel Park, 8th Floor, D-Block (North & South)
No.4, Rajiv Gandhi Salai,
Taramani, Chennai-600 113.
Represented by its Director.

... Petitioner

vs.

Xavier Benedict
Sole Proprietor
M/s.Anameka Architects & Designers
No.35/18 Pushpa Nagar Main Road
Mahalingapuram, Nungambakkam
Chennai-600 034.

... Respondent

Original Petition filed under Section 34 of the Arbitration and Conciliation Act, 1996 praying to

(a) set aside the arbitral award dated 30.11.2016 passed by the learned Arbitrator;

(b) award costs of the proceedings to the petitioner;

For Petitioner : Mr.R.Arvind
of M/s.Menon, Karthik,
Mukudan and Neelakantan (Law Firm)

For Respondent : Mr.G.Ashokapathy
of M/s.Pass Associates



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COMMON ORDER

This common order will dispose of the captioned original petition i.e., 'O.P.No.230 of 2017' [hereinafter 'main OP' for the sake of convenience and clarity] and captioned application i.e., A.No.1693 of 2017 thereat for stay of the impugned award. To be noted, captioned main OP has been presented in this Court under Section 34 of 'The Arbitration and Conciliation Act, 1996 (Act No.26 of 1996)' [hereinafter 'A and C Act' for the sake of convenience and clarity] assailing an 'arbitral award dated 30.11.2016' [hereinafter 'impugned award' for the sake of convenience and clarity].

2. Today, Mr.R.Arvind, learned counsel representing M/s.Menon, Karthik, Mukundan and Neelakantan [Law Firm] on behalf of sole petitioner and Mr.G.Ashokapathy, learned counsel of M/s.Pass Associates (Law Firm) on behalf of lone respondent are before this Court.

3. Both learned counsel submit that the captioned main OP has been settled out of Court between the parties and they placed before this Court a 'Memorandum of Compromise dated 31.03.2022' [hereinafter 'said MOU' for the sake of convenience and clarity] a scanned reproduction of which

(with docket) is as follows:



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IN THE HIGH COURT OF JUDICATURE AT MADRAS
(Ordinary Original Civil Jurisdiction)

O.P. No. 230 of 2017

In the matter of Section 34 of the
Arbitration & Conciliation Act, 1996
And
In the matter of disputes arising out
of the Comprehensive Architectural
Services Agreement dated 15.07.2008
And
In respect of the Arbitral Award
dated 30.11.2016

BETWEEN

Centre for Development of Advanced Computing
STPI Facilities Centre
Ground Floor, No.5, Rajiv Gandhi Salai,
Taramani, Chennai- 600 113
Represented by its Director

Petitioner

AND

Mr. Xavier Benedict
Sole Proprietor
M/s. Anameka Architects & Designers
No.30/1A, Pushpa Nagar Main Road
Mahalingapuram, Nungambakkam
Chennai- 600 034

Respondent

**MEMORANDUM OF COMPROMISE ENTERED INTO BETWEEN
PETITIONER AND RESPONDENT**

It is jointly submitted on behalf of the Petitioner and Respondent as follows:

1. The above Original Petition O.P No. 230 of 2017, has been filed by the
Petitioner under Section 34 of Arbitration and Conciliation Act, 1996 to
set aside the Arbitral Award dated 30.11.2016 and award costs to the
Petitioner.
2. The Parties have arrived at an out of court settlement and as per their
mutual agreement, the Petitioner has on this date paid to the
Respondent a sum of Rs. 5,40,000/- (Rupees Five Lakhs Forty Thousand/-)



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Only) i.e. Rs.8,00,000/- less TDS) by way of Bank transfer (SBI to SBI, Journal ID- 218550703) dated 25.03.2022 and the Respondent acknowledges and admits receipt.

3. Both parties hereby confirm that they have no claim whatsoever as against each other in respect of the Comprehensive Architectural Services agreement dated 15.07.2008 and Award dated 30.11.2016.

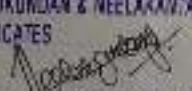
4. The above Original Petition may be disposed off as settled out of court.

It is therefore prayed that this Hon'ble Court may be pleased to take this Memorandum of Compromise on record and dispose off the O.P No. 250 of 2017 as settled out of court and thus render justice.

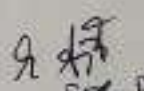
Dated at Chennai on this 31st day of March, 2022.


PETITIONER

MEYON, KARTHIK, MUKUNDAN & NEELAKANTAN
ADVOCATES


COUNSEL FOR PETITIONER


RESPONDENT


FOR PASS ASSOCIATES
COUNSEL FOR RESPONDENT

4. Both learned counsel make a request that the captioned main OP can be disposed of as settled out of Court as there is full satisfaction qua impugned award and parties have no claim against each other.



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5. This Court has taken note of ***Hakeem*** principle being ratio laid down by Hon'ble Supreme Court in ***Project Director, National Highways No.45 E and 220 National Highways Authority of India Vs. M.Hakeem and another*** reported in ***[2021] SCC OnLine SC 473*** wherein it has been



power to modify an award. Therefore, it is made clear that this order shall not be construed as modifying the impugned award. It is only an order of closure of captioned main OP and captioned application thereat recording the stated position of the parties which has been reduced to writing and articulated in the aforementioned said MOU.

6. In the light of the narrative thus far, captioned main OP and captioned application are disposed of as closed having been settled out of Court. There shall be no order as to costs.

Sd./- M.S.J.,
31.03.2022

//Certified to be true copy//

Dated at Madras this the day of 2022.

COURT OFFICER(O.S.)

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