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Arb. O.P(Com.Div). No.28 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.04.2023

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THE HONOURABLE MR. JUSTICE KRISHNAN RAMASAMY

Arb. O.P(Com.Div).No.28 of 2023

M/s.SNJ Corporate Solutions LLP,
represented by its Authorised Signatory,
Mr.N.Mathappan,
having Office at No.72, Greams Road,
Anna Salai, Chennai – 600 006.

... Petitioner

Vs.

M/s.Fujitec India Pvt. Ltd.,
No.5, Cross Street, Srinagar Colony,
Saidapet, Chennai – 600 015.

... Respondent

PRAYER : Original Petition is filed under Section 11(6) of the Arbitration and Conciliation Act, 1996 r/w. Section 2(c) (xviii) and Section 7 and 10(2) of the Commercial Courts Act, 2015, praying to pass an order of appointing a Sole Arbitrator in terms of Clause 12 of the Purchase Order dated 10.12.2019 to adjudicate upon the disputes that have arisen between the parties in relation to the Sale and Delivery of 4 Passenger Elevators.

For Petitioner : Mr.A.R.Karthiklakshmanan

For Respondent : No Appearance



ORDER

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This Original Petition is filed under Section 11(6) of the Arbitration and Conciliation Act seeking to appoint a Sole Arbitrator in terms of Clause 12 of the Purchase Order dated 10.12.2019 to adjudicate upon the disputes that have arisen between the parties in relation to the Sale and Delivery of 4 Passenger Elevators.

2.This Court ordered notice on 24.01.2023. Though notice has been served on the respondent, none appears for the respondent which shows that the respondent is not interested to contest the case. Hence, this Court proceeds to pass orders.

3.The learned counsel appearing for the petitioner submitted that the petitioner entered into contract with the respondent on 10.12.2019 for purchase of elevators for a sum of Rs.1,09,18,718/-. He would further submit that the petitioner initially paid a sum of Rs.32,20,096/- as advance and thereafter, paid a sum of Rs.40,00,000/, in the mean time, the respondent forfeited the contract. He further submit that the petitioner is ready to pay Rs.6,73,681/-. Therefore, he would submit that the present dispute arising out of the contract and when the petitioner is ready and willing to pay the balance amount, it is only the



respondent refused to comply with the terms and conditions of the purchase order and supply the elevators to the petitioner. He would state that the present dispute is arbitral in terms of the Clause 12 of the purchase order dated 10.12.2019.

4. For better appreciation, Clause 12 of the Purchase Order dated 10.12.2019, is reproduced hereunder:

“12.Arbitration:-

The agreement shall be construed and enforced in accordance with and under the laws applicable in India. Both SNJCSL and FUJITEC agree that in case of any difference or dispute arising between us will be resolved by mutual discussions and agreement. However, unresolved issues, if any, will be settled through arbitration as per the Arbitration and Conciliation Act, 1996 as amended and the venue of the Arbitration will be at Chennai.”

5. Upon hearing the learned counsel appearing for the petitioner and on perusal of the documents available, it is clear that the present dispute is arising out of the purchase order dated 10.02.2019 and the same can be arbitral under Clause 12 of the said purchase order. Hence, this Court is inclined to appoint a sole Arbitrator and pass the following orders:



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i) Accordingly, **Mr.D.Selvaraju, Advocate, New No.31, Parameshwari Nagar, 1st Street, Adyar, Chennai – 600020. (Mobile No.9444088288), E-mail: dselva_@yahoo.com** is appointed as the Arbitrator to enter upon reference and adjudicate the disputes *inter se* the parties.

ii) 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 without influencing any of the observations made by this Court in this order.

iii) Learned Arbitrator is requested to conduct arbitration proceedings in accordance with the Madras High Court Arbitration Proceedings Rules, 2017 and the fee of the learned Arbitrator shall be fixed in accordance with Madras High Court Arbitration Centre (MHCAC) (Administrative Cost and Arbitrator's Fees), Rules 2017.

iv) In the event of non-appearance of the respondent herein, the petitioner herein shall bear the entire remuneration and other expenses and thereafter, the petitioner can recover the same directly from the respondent herein.



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6.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.

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KRISHNAN RAMASAMY, J.

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