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Arb.O.P.(Com.Div.) No.161 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.08.2023

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THE HON'BLE Mr. JUSTICE ABDUL QUDDHOSE

Arb.O.P (Com.Div.) No.161 of 2023

M/s.Annai Builders Real Estates Pvt. Ltd.,
represented by its Special Officer K.Prabhakaran ... Petitioner

Versus

K.Prathip ... Respondent

Prayer: Arbitration Original Petition (Commercial Division) filed under Section 11(6) of the Arbitration and Conciliation Act, 1996 to appoint an Arbitrator to adjudicate the dispute that had arisen between the petitioner and the respondent.

For Petitioner : Mr.S.Gopinath

For Respondent : Mr.K.Venkatesan

ORDER

This petition has been filed under Section 11 of the Arbitration and Conciliation Act seeking for appointment of an Arbitrator by this Court.



2.The respondent is the Land Owner. He had entered into an Agreement for Construction with the petitioner on 29.10.2014. There seems to be a dispute arising out of the same. The petitioner claims that certain sums of money are due and payable by the respondent under the Agreement for Construction dated 29.10.2014. There is an Arbitration Clause in the Construction Agreement dated 29.10.2014, which is extracted hereunder:

'22.Arbitration

Any dispute between the parties shall be referred to a Sole Arbitrator to be appointed by the BUILDER. The proceedings shall be conducted in English language and the venue of arbitration shall be Chennai. The Arbitrator shall also be entitled to pass interim award. The award of the Arbitrator shall be final and binding on the parties.'

3.The petitioner has invoked Arbitration in accordance with the Arbitration Clause by sending a legal notice to the respondent on 07.04.2021. The said notice has also been received by the respondent, who has also sent a reply on 17.04.2021. Since there has been no consensus between the parties with regard to the name of the Arbitrator, the petitioner has filed this petition under Section 11 of the Arbitration and Conciliation Act seeking for appointment of an Arbitrator.



4.Learned counsel for the respondent also admits that there is an

Arbitration Clause in the Construction Agreement dated 29.10.2014.

However, he would submit that the respondent is not liable to pay any amount to the petitioner. Any dispute with regard to the liability can be agitated only before the Arbitral Tribunal and not before this Court, which is deciding only a petition under Section 11 of the Arbitration and Conciliation Act.

5.Since there is a valid Arbitration Agreement in the Construction Agreement dated 29.10.2014, necessarily this Court will have to appoint an Arbitrator.

6.For the foregoing reasons, this Arbitration Original Petition is allowed as prayed for by issuing the following directions:

(a)This Court appoints Mr.Y.K.Rajagopal, Advocate, having office at 222/3 Rohini Flats, Anna Nagar, West Extension, 7th Avenue, Chennai 600 101 (Mobile No.9841065907) as the Sole Arbitrator to decide the dispute



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between the petitioner and the respondent arising out of the Agreement for Construction dated 29.10.2014, on merits and in accordance with law.

(b)The Arbitrator shall be paid his remuneration / fees in accordance with the 4th Schedule of the Arbitration and Conciliation Act, 1996.

(c)Both the parties shall equally share the Arbitrator's fees.

(d)The Arbitrator shall conduct the arbitration in accordance with the provisions of the Arbitration and Conciliation Act, 1996 and shall complete the arbitration within the specified time as prescribed under the said Act.

04.08.2023

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