



Arb. O.P(Com.Div). No.151 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.02.2023

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THE HONOURABLE MR. JUSTICE KRISHNAN RAMASAMY

Arb. O.P(Com.Div). No.151 of 2022

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... Petitioner

Vs.

1.M/s.Lakshmi Value Added Housing Private Ltd.,
Rep.by its Managing Director,
Ramya Ranganathan,
Having registered office at
No.39/17, Second Floor,
Seshachalam Street,
Saidapet,
Chennai – 600 015.

2.Ramya Ranganathan,
Managing Director,
M/s.Lakshmi Value Added Housing Private Ltd.,
No.39/17, Second Floor,
Seshachalam Street,
Saidapet,
Chennai – 600 015.

3.Ashok Jothi,
Director,
M/s.Lakshmi Value Added Housing Private Ltd.,
35, Pillayar Koil Street
Near SR Theater, Senguntharpettai,
Madhuranthakam,
Kancheepuram – 603 306.



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4. Madhanprabhu Nithiya,

Director

M/s. Lakshmi Value Added Housing Private Ltd.,

No.38/2, Pattamal Illam,

Perumal Kovil Street,

Saidapet, Chennai – 600 015.

Also having address at

No.39/17, 2nd Floor, Seshachalam Street,

Saidapet, Chennai – 600 015.

5. Vinoth Kumar,

Additional Director,

M/s. Lakshmi Value Added Housing Private Ltd.,

No.39/17, second Floor,

Seshachalam Street,

Saidapet,

Chennai – 600 015.

6. Stanislaus,

Additional Director,

M/s. Lakshmi Value Added Housing Private Ltd.,

No.39/17, Second Floor,

Seshachalam Street,

Saidapet,

Chennai – 600 015.

... Respondents

PRAYER : Original Petition is filed under Section 11(6) of the Arbitration and Conciliation Act, 1996, praying to pass an order of appointing a sole arbitrator to adjudicate the disputes between the petitioner and the respondents in connection with two Memorandum of Understanding dated 05.08.2019 in accordance with the provisions of Arbitration and Conciliation Act.

For Petitioner : Mr.R.Balaguruswamy

For Respondent : No Appearance

ORDER



WEB COPY This petition has been filed under Section 11(6) of Arbitration and Conciliation Act, 1996, seeking to appoint an Arbitrator for adjudication of dispute between the petitioner and respondents in connection with two Memorandum of Understandings dated 05.08.2019.

2.Learned counsel appearing for the petitioner would submit that the 1st respondent is carrying on real estate business. During its course of business, the 4th respondent, Director of the 1st respondent approached the petitioner seeking to invest in their company. Accordingly, the petitioner and the 1st respondent entered into a Memorandum of Understanding dated 05.08.2019 and the petitioner invested a sum of Rs.77,06,947/- in the 1st respondent company. By virtue of the said agreement, the 1st respondent agreed to remit the monthly installment of Rs.1,85,000/- till the duration of the agreement and Rs.1,23,000/- as benefit for the investment made by the petitioner. Till May 2020 the 1st respondent remitted the EMI and thereafter there was a default in payment and the total outstanding payable to the petitioner arrived at Rs.97,05,000/- as on October 2021. Therefore, the petitioner sent a legal notice dated 11.10.2021 and the same was returned with an endorsement “Unclaimed” Thereafter, on 04.12.2021, the petitioner sent a letter to the respondents proposing to initiate



Arbitration proceedings against all the respondents and nominated the Arbitrator, pursuant to the Arbitration Clause VIII of the said Memorandum of Understandings. Though the respondents have received the notice, they neither sent a reply nor came forward for an amicable settlement. Hence, the petitioner filed the present application.

3. Notice was ordered to the respondent and Ms. Ramya Subramaniam appeared before this Court on 06.02.2023 and undertook to file vakalat for the respondent. Hence, the matter is adjourned to 13.02.2023. However, today when the matter is called none appeared on behalf of the respondents and no vakalat has been filed for the respondents, which shows that the respondents are not interested to prosecute the case.

4. Upon hearing the learned counsel appearing for the petitioner and perusal of the documents, it is seen that as per the Memorandum of undertakings dated 05.08.2019, the respondents are liable to pay a sum of Rs.97,05,000/- to the petitioner. The petitioner has called upon the respondents to make the payments of their outstanding dues. However, the respondents failed to make the payments. The petitioner has also sent legal notices dated 04.12.2021, by nominating the arbitrator to adjudicate the disputes. Even then,



the respondents have not responded. Therefore, the petitioner prays to appoint

Sole Arbitration in terms of the Clause VIII of the Memorandum of Undertakings.

5.For better appreciation, Clause VIII of the Memorandum of Undertakings dated 05.08.2019, is reproduced hereunder:

“VIII) Governing Law and Jurisdiction:

In the event of any dispute or difference between the parties hereto or as to the rights and obligations under this agreement or as to any claim, monetary or otherwise of one party against the other or as to the interpretation and effect of any terms and conditions of this agreement, such dispute or difference shall be referred to Arbitration of a common Arbitrator if agreed upon otherwise to two or more Arbitrators, one to be appointed by each of the parties to this agreement and such Arbitration shall be governed by the Indian Arbitration and Conciliation Act, 1996 for the time being in force. The venue for such Arbitration shall be in India.

The validity of this agreement and the effect or meaning of the terms hereof will be decided according to the Indian Law.”



6. In view of the above submissions and a perusal of Clause VIII of the Memorandum of Understandings dated 05.08.2019, it is clear that the present dispute is arbitable in terms of the said agreement. Hence, this Court is inclined to appoint an Arbitrator to adjudicate the dispute between the petitioner and the respondents.

7. Accordingly, **the Hon'ble Mr.M.Vijayaraghavan, Former Judge, Madras High Court, Door No.2/15 Dr.T.V.Naidu Road, Flat No.2B, Abirami Foliage, Chetpet, Chennai, (Contact No.9003268968)** is appointed as the Arbitrator to enter upon reference and adjudicate the disputes *inter se* the parties. 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. The learned Sole Arbitrator appointed herein shall be paid fees and other incidental charges, fixed by him and the same shall be borne by the parties equally.

8. 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



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petitioner as well as the respondents to seek other reliefs under the provisions of Arbitration and Conciliation Act 1996 before the Arbitrator.

13.02.2023

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KRISHNAN RAMASAMY. J.,



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