



Arb.Original Petition (Com.Div.) No.60 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.03.2023

CORAM:

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

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R.Gunasekaran
Having his Office at
AGA Agency, (C.C.No.184044)
Bharat Petroleum Dealers,
S.F.No.664/2A, Kovai Main Road,
Kangeyam, Tiruppur - 638 701.

... Petitioner

Vs.

M/s.Bharat Petroleum Corporation Limited,
Rep. by the Territory Manager (Retail),
Irugur Top Installation,
Ravathur (P.O.), Irugur (Via),
Coimbatore - 641 103.

... Respondent

PRAYER: The Original Petition has been filed under Section 11 (6) of Arbitration and Conciliation Act, 1996, to appoint a Sole Arbitrator to adjudicate upon the disputes arisen between the petitioner and the respondent under the Pump and Selling License Dated 03.03.2014.

For Petitioner : Mr.P.V.Selvakumar

For Respondent : Mr.M.Vijayan
for M/s.King & Partridge



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ORDER

The present Original Petition has been filed under Section 11 (6) of Arbitration and Conciliation Act, 1996, to appoint a Sole Arbitrator to adjudicate upon the disputes arisen between the petitioner and the respondent under the Pump and Selling License Dated 03.03.2014.

2. The learned counsel appearing for the petitioner would submit that the present dispute arisen between the parties can be referred to the Arbitrator in terms of Clause 19(a) of the Pump and Selling License. The said Clause is extracted as follows:-

" 19. a) Any dispute or difference of any nature whatsoever, any claim, cross-claim, counter-claim or set off of the Company against the License or regarding any right, liability, act, omission or account of any of the parties hereto arising out of or in relation to this agreement shall be referred to the Sole Arbitration of the Director (Marketing) of the Company or of some Officer of the Company who may be nominated by the Director (Marketing). The license will not be entitled to raise any objection to any such arbitrator on the ground that the arbitrator is an officer of the Company or that he has dealt with the matters to which the contract relates or that in the course of his duties as an Officer of the Company, he had expressed view on all or any other matters in dispute or difference. In the event of the arbitrator to whom the matter is



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originally referred, the Director (Marketing) aforesaid at the time of such transfer, vacation of office or inability to act may in the discretion of the Director (Marketing) designate another person to act as arbitrator in accordance with the terms of the agreement to the end and intent that the original Arbitrator shall be entitled to continue the arbitration proceedings notwithstanding his transfer or vacation of office as an officer of the Company if the Director (Marketing) does not designate another person to act as arbitrator on such transfer, vacation of office or inability of original arbitrator. Such person shall be entitled to proceed with the reference from the point at which it was left by his predecessor. It is also a term of this contract that no person other than the Director (Marketing) of the Company or a person nominated by such Director (Marketing) aforesaid shall act as arbitrator hereunder. The award of the arbitrator so appointed shall be final, conclusive and binding on all parties to the agreement subject to the provisions of the Arbitration & Conciliation Act, 1996, or any statutory modification or enactment thereof and the rules made thereunder for the time being in force shall apply to the arbitration proceedings under this clause. "

3. The learned counsel appearing for the petitioner would further submit that the petitioner has sent a notice on 23.12.2022 under Section 21 of the Arbitration and Conciliation Act, 1996, and the respondent has also sent a reply rejecting to give consent for arbitration. Hence, without any other option,



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the present petition is filed by the petitioner, and requested to refer the matter before the Arbitrator to resolve the dispute between the parties.

4. The learned counsel appearing for the respondent would fairly submit that he has no objection for referring the matter for arbitration and requested this Court to appoint a Sole Arbitrator.

5. Considering the submission made by the learned counsel appearing on either side, this Court is of the considered view that the present dispute squarely falls within the scope of the Agreement. Hence, this Court is inclined to appoint a sole Arbitrator to decide the issue that is involved in this case and accordingly, ***Mr.V.Inbavijayan, Advocate, residing at G-2, Plot No.108, Magestic Colony, Valasarawakkam, Chennai - 600 087, Mobile No.9840114287***, is appointed as 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 (6) months from the date of receipt of the Order.



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6. The learned counsel appearing on either side requests to conduct the arbitration proceedings in the Arbitration and Conciliation Centre, High Court of Madras. Considering the request of the learned counsel for both sides, the arbitration shall be conducted in the Arbitration and Conciliation Centre under the aegis of this Court (MHCAC) in accordance with the Madras High Court Arbitration Proceedings Rules, 2017 and the learned Arbitrator's fee shall be as per Madras High Court Arbitration Centre (MHCAC) (Administrative Cost and Arbitrator's Fees), Rules 2017.

7. This Original Petition is ordered accordingly, leaving the parties to bear their own costs. It is open to the parties to raise all the issues, which have been put forth before this Court and the learned Arbitrator is directed to decide the issue between the parties on his own.

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KRISHNAN RAMASAMY, J.

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