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Arb..O.P(Com.Div). No.103 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.11.2023

CORAM :

THE HONOURABLE MR.JUSTICE C.SARAVANAN

Arb.O.P(Com.Div).No.103 of 2023

P.Chandran

... Petitioner

Vs.

1.N.Arunachalam

2.A.Rajmohan

... Respondents

Prayer: Original Petition is filed under Section 11(6) of the Arbitration and Conciliation Act, 1996, praying

(i) to appoint an independent and impartial arbitrator to hear and decide the disputes between the petitioner and the respondent arising out of the Reconstitution of Agreement dated 25.08.2014 as set out under details of claims in para No.16 above and

(ii) to direct the respondents to pay the cost of this petition.



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For Petitioner : Mr.Krishnasamy Chinnasamy

For Respondents : Mr.Purujit Narayanan

ORDER

It is noticed that the petitioner had earlier filed a suit against the respondents before the Additional District Court, Hosur in O.S.No.132 of 2017. The suit was dismissed for default on 14.09.2021.

2. In the said proceedings the petitioner had filed two applications in I.A.Nos.3 and 4 of 2022 to condone the delay in filing the application under Order 9 Rule 9 of CPC and to restore the suit in O.S.No.132 of 2017 to the file of the said Court in the said proceedings. In the said proceeding, the respondents had taken a stand that the dispute between the parties is arbitrable, as it is evident from the counter that was filed before the Court. It is noticed that the applications were dismissed by the Court on 13.12.2022.

3. The dispute between the parties are arbitrable in terms of Reconstitution Deed dated 28.08.2014. Clause 8 of the said deed of Reconstitution dated 28.08.2014 contemplates a Clause for resolution the



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dispute through arbitration. It is not open for the respondent to take inconsistent stand before this Court and before the Additional District Court, Hosur in O.S.No.132 of 2017. There is a saving of limitation under Section 43 of the Arbitration and Conciliation Act, 1996.

4. Considering the above, Court is inclined to pass the following order:-

(i) Mr.Rahul Unikrishnan, (Mobile No.9962912105) is appointed as an Arbitrator to enter upon reference and adjudicate/resolve the *inter se* dispute between the parties.

(ii) The learned Arbitrator appointed herein, shall after issuing notice to the parties and upon hearing them, endeavour to complete the arbitral proceedings and pass an award strictly in accordance with the provisions of the Arbitration and Conciliation Act, 1996, as expeditiously as possible, preferably within a period of twelve months after the date of completion of pleadings under Sub-Section 4 to Section 23 as is contemplated in Section 29-A of the Arbitration and Conciliation Act, 1996, without getting influenced by any of the observations made by this Court in this order.

(iii) The learned Arbitrator appointed herein shall be paid fees and other incidental charges as may be fixed with the consent of parties or in accordance with the provisions of the Arbitration and Conciliation Act, 1996, and the same



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shall be borne by the parties equally. In case, the respondents remain *ex parte*,

the petitioner shall pay the entire fee and other incidental charges to the Arbitrator and later recover the same from the respondents.

5. This Original Petition is disposed of accordingly, leaving the parties to bear their own costs.

6. Since this Court has appointed the Arbitrator, it is open to the petitioner as well as the respondent to seek other reliefs under Section 17 of the Arbitration and Conciliation Act, 1996, before the learned Arbitrator.

09.11.2023

Index : Yes/No

Internet : Yes/No

Speaking Order/Non-Speaking Order

Neutral Citation : Yes/No

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C.SARAVANAN, J.

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