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Arb. O.P(Com.Div). No.78 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.04.2023

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THE HONOURABLE MR. JUSTICE KRISHNAN RAMASAMY

Arb. O.P(Com.Div).No.78 of 2023

C.Deepthi, Sole Proprietrix
Carrying on business in the name and style of
Delite Catering Service having its office at
No.8/21, VR Pillai 2nd Street, Triplicane,
Chennai – 600 008.

... Petitioner

Vs.

E-con Systems India Pvt Ltd.,
represented by its Director
Rishabh Info Park, RR Tower IV,
7th Floor, Super A -16 & A-17,
Thiru-Vi-Ka Industrial Estate,
Guindy, Chennai – 600 032.

... Respondent

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 resolve the dispute between the petitioner and the respondent in terms of the Arbitration Agreement dated 01.02.2022 and to direct the respondent to pay costs.

For Petitioner : Mr.P.J.Rishikesh

For Respondent : Ms.A.Saranya
for M/s.Iyer and Thomas



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ORDER

This petition has been filed under Section 11(6) of Arbitration and Conciliation Act, 1996, (hereinafter referred as “the Act”), seeking to appoint an Arbitrator to resolve the dispute between the petitioner and the respondent in terms of the Arbitration Agreement dated 01.02.2022.

2.Learned counsel appearing for the petitioner would submit that the petitioner is providing the catering services. During the course of its business, the respondent and the petitioner entered into an agreement on 01.02.2022 for a period of two years from 01.02.2022 to 31.01.2024. Thereafter, the petitioner was duly and diligently have been providing the food service on a regular basis as per the terms of the contract. While so, the petitioner received an e-mail from the respondent stating that the contract stands terminated. The respondent did not even follow the 30 days notice period as per Clause 17 of the contract.

3.He would further submit that the sudden termination of contract has led them to great loss. The petitioner has spent a sum of Rs.1.86 Lakhs and bought utensils, containers etc., to cater the needs of the respondent. Apart from that, the petitioner has hired vehicles for the supply of food to the respondent's



locality and has also hired staff for the food services and paid wages accordingly. Therefore, the petitioner sent a legal notice dated 04.07.2022 to the respondent. In response, vide letter dated 18.07.2022, the respondent for the first time claimed that there were negative feedbacks from its staff and vide the same letter, the respondent came forward to settle the issue by giving one month billing value as compensation, which was unreasonable. Therefore, without no other option, the petitioner invoked Clause 18 of the Agreement dated 01.02.2022 vide letter dated 21.10.2022, suggesting names of Arbitrators and sought their consent. However, the respondent refuted the claims of the petitioner and at the same time showed interest in settling the issues amicably. Therefore, the petitioner vide email dated 23.01.2023 sent their proposal for settlement and sought for immediate action. But, there was no response from the respondent. Hence, the petitioner has come up with the present application praying to appoint a sole Arbitrator to resolve the disputes in terms of Clause 18 of the said contract.

4.Learned counsel appearing for the respondent would submit that the respondent has no objection in appointing a sole Arbitrator to resolve the present dispute.



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5. For better appreciation, Clause 18 of the Agreement dated 01.02.2022, is reproduced hereunder:

“18. All dispute(s) or difference(s) arising between the parties shall be amicably resolved by the parties through mutual negotiations. Failure to do so would entitle and aggrieved party to refer such dispute(s) for arbitration, to the sole arbitrator nominated by the Company. The arbitrator proceedings shall in accordance with the Arbitration and Conciliation Act, 1996. The language of arbitration proceedings shall be at Chennai.”

6. Considering the submissions made by the learned counsel appearing for the petitioner and the learned counsel appearing for the respondent and in view of the fact that the present dispute is arising out of the Agreement dated 01.02.2022, and the same is arbitrable under Clause 18 of the said agreement, this Court is inclined to appoint a sole Arbitrator and pass the following orders:

i) Accordingly, **Mr.D.Selvaraju, Advocate, New No.31, Parameshwari Nagar, 1st Street Adyar, Chennai – 600 020, (Mobile No.9444088288)**, is appointed as the Arbitrator to enter upon reference and adjudicate the disputes *inter se* the parties.



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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.

7.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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