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Arb.O.P.(Com.Div.) No.162 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.07.2023

CORAM

THE HON'BLE Mr. JUSTICE ABDUL QUDDHOSE

Arb.O.P (Com.Div.) No.162 of 2023

C.V.Lingesan

... Petitioner

Versus

D.Ezhumalai

... Respondent

Prayer: Arbitration Original Petition (Commercial Division) filed under Section 11(4)(a) of the Arbitration and Conciliation Act, 1996 to appoint an Arbitrator to adjudicate the disputes between the petitioner and the respondent in terms of Arbitration Agreement dated 01.07.2022.

For Petitioner : Mr.R.Sethu Pandian

For Respondent : Ms.T.Muthamilselvi

ORDER

This petition has been filed under Section 11(4)(a) of the Arbitration and Conciliation Act, 1996 seeking for appointment of an Arbitrator.



2.The petitioner has entered into an Agreement of Sale dated 01.07.2022 with the respondent. Under the said Agreement of Sale, the petitioner has agreed to purchase a property from the respondent. There seems to be a dispute between the petitioner and the respondent under the Agreement of Sale dated 01.07.2022. There is an Arbitration Agreement in the Agreement of Sale dated 01.07.2022, which is extracted hereunder:

'In the event of any dispute arising on the above terms and conditions for fulfilment by either of the parties, the same can be sorted out through arbitration as per the Arbitration Act and restricted to Chennai Jurisdiction only.'

3.The petitioner has invoked arbitration by sending a notice to the respondent on 06.12.2022, which has been duly acknowledged by the respondent as seen from the Acknowledgement Card dated 07.12.2022. Despite receipt of such notice, the respondent has neither chosen to reply nor has agreed for arbitration. In such circumstances, this petition has been filed seeking for appointment of an Arbitrator.



4. Admittedly, there is an Arbitration Agreement between the parties, which has been extracted supra. The same is also not disputed by the learned counsel for the respondent. When there is an Arbitration Agreement and there is a dispute between the parties under the Agreement of Sale dated 01.07.2022, this Court will have to appoint an Arbitrator under Section 11 of the Arbitration and Conciliation Act.

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

(a) This Court appoints Mrs.R.Rathna Thara, No.9, Siddhi Vinayakar Koil Street, T.Nagar, Chennai-600 017, Mobile No.9840451276, Advocate as a Sole Arbitrator to decide the dispute between the petitioner and the respondent arising out of the Sale Agreement dated 01.07.2022, 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.



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(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.

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Index:Yes/No
Speaking/Non-speaking orders

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