



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.07.2023

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA
Arb.O.P.No.23 of 2023

1.R.Prasanakumar
2.S.Rajasekaran

...

Petitioners

Vs.

1.A.Kolangiyappan
2.R.Suresh Kumar

...

Respondents

PRAYER: Petition filed under Section 11(6) of the Arbitration and Conciliation act, prays to appoint an arbitrator to adjudicate the disputes between the petitioners and the respondents in terms of the arbitration agreement dated 30.07.2022.

For Petitioners : Ms.K.Anitha

For Respondents : No appearance

ORDER

This Original Petition has been filed under Section 11(6) of the Arbitration and Conciliation Act seeking to appoint an arbitrator to adjudicate the disputes between the petitioners and the respondents in terms of the arbitration agreement dated 30.07.2022.

2. Heard the submission made by the learned counsel for the



petitioners and perused the materials available on record. There was no representation on behalf of the respondents.

3. The respondents are the power agents for one R.Natarajan and the petitioners and the respondents had entered into a sale agreement in respect of the landed properties on 20.08.2021 for a sale consideration of Rs.71,83,250/-. The petitioners paid an advance amount of Rs.12,00,000/- and the remaining amounts up to Rs.71,80,000/- from time to time. The petitioners approached the respondents on 20.10.2022 and made a request to accept the balance payment of Rs.3250/- and to execute the sale deed as per the sale agreement. But the respondents refused to accept the same and not inclined to execute the sale deed in favour of the petitioners. It is agreed between the parties that if any dispute arises in respect of the agreement, the dispute will be settled down by appointing an Arbitrator. Hence, the petitioners had issued a notice on 26.10.2022 calling upon the respondents to give the consent for the appointment of a named Arbitrator within 3 months from the date of receipt of the said notice. But the respondents sent a reply notice dated 27.01.2023 by stating that there is no necessity to appoint an Arbitrator and the respondents remained out of



station. Hence the petitioners had no other option except to file this Original Petition for appointment of an Arbitrator.

4. A copy of the agreement said to have been entered into between the petitioners and the respondents dated 20.08.2021 has been produced before this Court.

5. According to the petitioners, a dispute has arisen due to failure to execute the sale deed, as per the agreement. As per the arbitration clause, the parties have to settle the dispute by appointing an arbitrator. However, the respondents did not come forward to give either their consent or their objection for appointment of an Arbitrator, in terms of the arbitration clause. Hence an Arbitrator has to be appointed as prayed.

6. In view of the above stated reasons, this Court appoints **Mr.P.Ganesan, M.A., B.L., District Judge (Rtd)**, residing at No.778, Judges Colony, Kakithapuram 4th Street, S.Kolathur, Kovilambakkam, Chennai 600 117, (Cell Number: 96000 45571 and 9600045570,



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Ph.No.044-22462237) as the Sole Arbitrator to enter upon the reference and adjudicate the disputes *inter se* the parties. The learned Arbitrator may, 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. The learned Arbitrator is at liberty to fix his remuneration and other incidental expenses as per the schedule to the Arbitration & Conciliation Act, 1996. The proceedings may be conducted under the aegis of the Madras High Court Arbitration Centre and in accordance with the Madras High Court Arbitration Rules. The disclosure and declaration may be made by the learned Arbitrator in the form specified in the Sixth Schedule to the Arbitration and Conciliation Act, 1996.

7. This Original Petition is **allowed** accordingly and the parties are liable to bear their own costs.

14.07.2023

gsk



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Copy to:

Mr.P.Ganesan, M.A., B.L.,
District Judge (Rtd),
No.778, Judges Colony,
Kakithapuram 4th Street,
S.Kolathur, Kovilambakkam,
Chennai 600 117.



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R.N.MANJULA, J.

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