



ARB.O.P.(Com.Div) No.171 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.08.2023

CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

Arb.O.P.(Com.Div) No.171 of 2023
and A.No.3328 of 2023

T.K. Usman Sarjun

... Petitioner

Vs.

Emperor Entertainment,
Rep. by its Proprietor, Mr.Irfan Malik,
26, Mahalakshmi Flats,
4A, 3rd Floor, Tank Bund Road,
Nungambakkam,
Chennai – 600 034.

... Respondent

Prayer : Arbitration Original Petition (Commercial Division) filed under Section 11(6) of the Arbitration and Conciliation Act, 1996, praying to appoint a Sole Arbitrator to resolve the disputes between the parties herein with respect of the Director Agreement dated 11.11.2020.

For Petitioner : Mr.N. Vishvanth

For Respondent : No appearance – Set *exparte*



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in accordance to the provisions of the Arbitration and Conciliation Act, 1996 as amended from time to time, presided over by a sole arbitrator to be appointed by the Madras High Court on an application moved by any one of the parties to this Agreement. Judgment upon the arbitral award may be entered in any competent court at Chennai having jurisdiction over the Parties or their assets. The arbitration proceedings shall be held at Chennai. The arbitration proceedings shall be conducted in the English language. The parties shall bear the costs of arbitration equally. The award passed by the sole arbitrator shall be final and binding on the parties.”

3. The petitioner has also invoked arbitration in accordance with the arbitration clause by issuing a notice to the respondent on 10.01.2023. The arbitration invocation notice dated 10.01.2023 has been returned with an endorsement 'No such person' as seen from the returned cover which has been filed as a document in the typed set of documents filed by the petitioner. Thereafter, the petitioner has also sent an email to the respondent on 17.01.2023. The petitioner has also filed his bank statements in the typed set of documents reflecting part



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payment made by the respondent under the Director Agreement dated 11.11.2020. There seems to be a dispute between the parties arising out of the Director Agreement dated 11.11.2020. Since there is a valid arbitration clause available in the Director Agreement dated 11.11.2020 and the petitioner has also invoked arbitration in accordance with the arbitration clause by sending a notice to the respondent on 10.01.2023, there being no consensus between the parties with regard to the name of the Arbitrator, this Court has to necessarily appoint an Arbitrator as per the provisions of Section 11 of the Arbitration and Conciliation Act, 1996.

4. The respondent has been duly served through substituted service. Despite effecting substituted service on the respondent, the respondent has failed to enter appearance in this petition. Earlier, the notices sent to the respondent in this petition was returned 'unserved' and only for the said reason, this Court had ordered substituted service on the respondent. Since there is no representation on behalf of the respondent till date, the respondent is set *exparte* by this Court.



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5. For the foregoing reasons, this Court appoints Mr.Vishnu Mohan, Advocate, as the Sole Arbitrator to adjudicate the dispute between the petitioner and the respondent arising out of the Director Agreement dated 11.11.2020. Accordingly, this Arbitration Original Petition is allowed as prayed for, by issuing the following directions:-

(a) This Court appoints Mr.Vishnu Mohan, Advocate, having office at No.8, 8th Street, Dr.Radhakrishnan Salai, Mylapore, Chennai – 600004, as the Sole Arbitrator, to adjudicate the dispute between the parties arising out of the Director Agreement dated 11.11.2020.

(b) The Arbitrator shall be paid his remuneration/fees in accordance with the IV Schedule of the Arbitration and Conciliation Act, 1996.

(c) Both the parties shall equally share the Arbitrator's fees.



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ABDUL QUDDHOSE, J.

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(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.

Connected application is closed.

25.08.2023

Index: Yes/ No
Speaking/Non-speaking order
Internet: Yes/No
Neutral Citation: Yes/No

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