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Arb.O.P.(Com. Div.) No.180 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.07.2023

CORAM

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

Arb.O.P.(Com. Div.) No.180 of 2023

1.Senthiappan
2.Nageshwari
3.S.Karthik Shankar

... Petitioners

Vs.

Chennai Network Infrastructure Limited (CNIL)
presently called
GTL Infrastructure Limited,
New.No.232, Old No.186,
City Centre, 3rd Floor,
Purasawalkam High Road,
Kilpauk, Chennai - 600 010.

... Respondent

PRAYER: Petition filed under Section 11 of the Arbitration and Conciliation Act, 1996 to appoint an arbitrator to adjudicate the disputes between the petitioner and the respondent in terms of the arbitration clause 21 of the license deed dated 11.11.2015 and to direct the respondent to pay costs.

For Petitioners : Mr.S.Ananda Kumar

For Respondent : No Appearance



ORDER

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2. There seems to be a dispute between the petitioners and the respondent under a license deed dated 11.11.2015. Under the license deed, the respondent had erected cell phone tower in the land belonging to the petitioners and they had agreed to certain terms and conditions which includes payment of license charges to the petitioners. The petitioners claim that the respondent has abandoned the cell phone tower and they have also not paid the license charges to them for a long period. The petitioners have issued notices on 24.04.2018, 09.08.2021 and 19.12.2022 to the respondent, requesting them to pay the outstanding amount due to the petitioners and also directing them to remove the abandoned cell phone tower. According to the petitioners, none of those notices were responded to by the respondents.

3. License deed dated 11.11.2015 which is the contract entered into between the petitioners and the respondent contains an arbitration clause which is extracted hereunder:



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"Clause 21: Any dispute or claim between the parties hereto arising out of or relating to this agreement, or its implementations and / or its effect, or the breach, termination, due to efflux of time or otherwise, or invalidity thereof, either during its subsistence or after its termination, shall be referred to the arbitration of a sole arbitrator in accordance with the provisions of Arbitrations and Reconciliation Act, 1996. The Arbitration shall be held at Chennai."

4. Since there was no consensus between the parties with regard to the appointment of the arbitrator, the petitioners have filed this petition under Section 11 of the Arbitration and Conciliation Act, 1996, seeking for appointment of a sole arbitrator. The notice in this application has been duly served on the respondent and the name of the respondent is also printed in the cause list today. Earlier, a counsel had represented before this Court that he is appearing for the respondent, but till date he has also not filed any vakalat.



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Arb.O.P.(Com. Div.) No.180 of 2015

5. Admittedly, there is an arbitration clause contained in the license deed dated 11.11.2015 entered into between the petitioners and the respondent. Since there is an arbitration agreement and that too when there has been no consensus between the parties for naming an arbitrator, necessarily this Court will have to appoint an arbitrator in accordance with the arbitration agreement entered into between the parties to the dispute.

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

(a) This Court appoints Mr.A.J.Jawad, Advocate , who is having office at No.5/1, Jagajeevan Ram Avenue, East Coast Road, Injambakkam, Chennai - 600 115 (Mob. No.98400 87114), as a sole Arbitrator to decide the dispute between the petitioners and the respondent arising out of the license deed dated 11.11.2015.

(b) The Arbitrator shall be paid his remuneration / fees in accordance with the 4th schedule of the Arbitration and Conciliation Act, 1996.

(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.

06.07.2023

Index : Yes/No
Speaking Order : Yes / No
Neutral Citation Case: Yes / No
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Arb.O.P.(Com. Div.) No.180 of 2023

ABDUL QUDDHOSE. J.,

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Arb.O.P.(Com. Div.) No.180 of 2023

06.07.2023