



Arb.O.P (Com.Div.) No.174 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.04.2023

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

Arb.O.P (Com.Div.) No.174 of 2023

M/s.PSK Engineering Construction,
Rep.by its Managing Partner,
P.Arunkumar,
No.2/72, Kolli Hills Road,
Naducombai, Namakkal District 637 404

... Petitioner

Vs.

M/s.Swamy Ayyappan Educational Trust,
Represented by its Managing Trustee,
R.Elangovan,
No.7/9, Renugadevi Nagar,
By-Pass Road, M.Pudupatti,
Musiri, Trichy 621 211.

... Respondent

Arbitration Original Petition filed under Section 11(6) of the Arbitration and Conciliation Act, 1996 to appoint a Sole Arbitrator to adjudicate upon the disputes arisen between the petitioner and the respondent under the contract agreement dated 02.04.2019.



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For Petitioner : Mr.S.Ramachandran

For Respondent : Mr.R.Vivek

ORDER

This Arbitration Original Petition has been filed under Section 11(6) of the Arbitration and Conciliation Act, 1996 (hereinafter called as “the Act”) to appoint a Sole Arbitrator to adjudicate upon the disputes arisen between the petitioner and the respondent under the contract agreement dated 02.04.2019.

2. The learned counsel for the petitioner would submit that there is a dispute between the petitioner and the respondent, which was arisen out of the Contract agreement dated 02.04.2019. Therefore, he would submit that the present dispute is arbitrable in terms of Clause 22 of the said Contract, which reads as follows:

“22. Any dispute arising out of or in connection with this agreement including any claims arising out of any works executed during the term of this agreement shall be resolved between the parties through Arbitrator by the Sole Arbitrator to be appointed under the provisions of the Arbitration and Conciliation Act, 1996. The place of Arbitration shall be at Trichy. The Court at City of Trichy shall have exclusive jurisdiction.”



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3. In reply, the learned counsel for the respondent would submit that since the present dispute is arbitrable in terms of the aforesaid clause, he has no objection in allowing this petition by appointing an Arbitrator.

4. Heard the learned counsel for the petitioner as well as the learned counsel for the respondent and perused the materials available on records.

5. In view of the above, this Court is satisfied that the present dispute is arbitrable and is inclined to appoint a sole Arbitrator.

6. Accordingly, this Court feels it appropriate to pass the following order:

i) Hon'ble Mr.Justice K.Kalyana Sundaram(Rtd.), residing at Flat No.406, 5th South Cross Street, Kapaleaswarar Nagar, Neelankarai, Chennai, Contact No.93810 11077, is appointed as sole arbitrator to enter upon reference and adjudicate the disputes *inter se* the parties.

ii) The learned Arbitrator appointed herein, shall after issuing notice to the parties and upon hearing them, pass an



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award as expeditiously as possible, preferably within a period of six months from the date of receipt of the Order.

iii) The learned Sole Arbitrator appointed herein shall be paid fees and other incidental charges, fixed by him and the same shall be borne by the parties equally. In the event of non-appearance of the respondent, the petitioner shall bear the entire remuneration and other expenses and thereafter, the petitioner can recover the same directly from the respondent.

7. This Arbitration Original Petition is allowed 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.

27.04.2023

Speaking/Non-speaking order

Index : Yes / No

Neutral Citation: Yes / No

nsa

Note: Issue order copy on 03.05.2023

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KRISHNAN RAMASAMY.J.,

nsa

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