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Arb.O.P.(Com. Div.) No.183 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **06.07.2023**

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THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

Arb.O.P.(Com. Div.) No.183 of 2023

Same Deutz Fahr India Private Ltd.,
Represented by Mr.P.Ramesh
No.72/72M, SIPCOT Industrial Complex,
Ranipet - 632 403.

... Petitioner

Vs.

1. M/s.Sri Lakshmi Agritech,
Plot No.05, Main Road, Auto Nagar,
Tenali Village & Mandal, Tenali (V&M),
Dist. Guntur - 522 201,
Andhra Pradesh.

Also at:

Road No.3, Chalasani Nagar, Industrial Estate,
Vijayawada, Andhra Pradesh - 520007.

2. Mrs.Basavapunya Padmavathi Kodali,
Partner, M/s.Sri Lakshmi Agritech,
Plot No.05, Main Road, Auto Nagar,
Tenali Village & Mandal, Tenali (V&M),
Dist. Guntur - 522 201,
Andhra Pradesh.

Also at:

House Number -3 - 101, Palaxendran Bazaar,
Pedaravuru, Tenali,
Guntur, Andhra Pradesh - 522 201.



3.Mr.Paruchuri Kamalendra Babu,
Partner, M/s.Sri Lakshmi Agritech,
Plot No.05, Main Road, Auto Nagar,
Tenali Village & Mandal, Tenali (V&M),
Dist. Guntur - 522 201,
Andhra Pradesh.

Also at:
4-5-29 / 26 /1, Ashok Nilayam 3/5,
Vidya Nagar, Guntur,
Andhra Pradesh - 522 006.

... Respondents

PRAYER: Petition filed under Section 11 of the Arbitration and Conciliation Act, 1996 to appoint a sole arbitrator to adjudicate the dispute between the petitioner and the respondent and direct the respondent to pay the cost of this petition.

For Petitioner : Ms.Prapti Mehta
for
M/s.Surana and Surana

For Respondent : Mr.V.S.R.Hanubabu koka

ORDER

This petition has been filed under Section 11 of the Arbitration and Conciliation Act seeking for appointment of an Arbitrator as per the Arbitral Agreement contained under the Dealership Agreement dated 10.01.2019.



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2. There seems to be a dispute between the petitioner, who is a Manufacturer and the respondents, who are its Dealers. They have entered into a contract on 10.01.2019 by which, the petitioner had appointed the respondents as its Dealers. In view of the dispute /differences arising out of the Dealership Agreement dated 10.01.2019, the petitioner desires to initiate arbitration in accordance with the Arbitration Clause contained in the agreement. The Arbitration Clause contained in the Dealership Agreement dated 10.01.2019 is extracted hereunder :

J. Dispute Resolution

Any and all disputes, which may arise under, out of, in connection with, or in relation to this Agreement, including those as to the application and /or interpretation of this Agreement, or the legal relations and /or mutual rights, performance and obligations of the parties hereunder, shall be resolved through negotiations by the authorised officers or representatives of the Company and the Dealer before seeking outside resolution of the dispute. Those disputes not resolved by negotiations, within thirty(30) days from the date of notification of the disputes, shall be resolved through arbitration by a sole arbitrator to be appointed by the Director of the Company, who may be authorised by the Board of Directors of the Company in this regard. The arbitration proceedings shall be held at Chennai in accordance with the provisions of the Arbitration & Conciliation Act, 1996 as in force in India or any statutory modification or reenactments thereof. The courts at Ranipet /Vellore alone shall have exclusive jurisdiction in all matters arising out of this Agreement.



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3. The petitioner has also sent a notice to the respondents on 22.02.2022 calling upon the respondents to pay the money due and payable to them. Thereafter, the petitioner has also invoked arbitration by sending a notice on 05.12.2022 to the respondents. Both the legal notice dated 22.02.2022 as well the arbitration invocation notice dated 05.12.2022 have not been responded. In such circumstances, this application has been filed seeking for appointment of an Arbitrator.

4. Mr.V.S.R.Hanubabu koka, learned counsel for the respondents would submit that the venue of the arbitration will have to be fixed only in a place at Andhra Pradesh as the entire transaction took place only at Andhra Pradesh. However, learned counsel for the petitioner would submit that as per the arbitration agreement, the seat of the arbitration is only at Chennai and hence, the arbitration will take place only at Chennai. Since the seat of the arbitration is at Chennai, as per settled law, the arbitration will have to take place only at Chennai.

5. In view of the arbitration agreement available in the Dealership Agreement, dated 10.01.2019, this petition filed under Section 11 for



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appointment of an Arbitrator is maintainable. Since, the respondents have not responded to the notices sent by the petitioner for accepting arbitration, this Court has to necessarily appoint an Arbitrator, who will have to decide the dispute / differences between the parties on merits and in accordance with law.

6. For the foregoing reasons and in view of the Arbitration clause available under the Dealership Agreement, this Court appoints Dr.S.Padma, Advocate, as the Sole Arbitrator to decide the dispute between the petitioner and the respondents. Accordingly, this Arbitration Original Petition is allowed as prayed for by issuing the following directions:

(a) This Court appoints Dr.S.Padma, Advocate , who is having office at T2, Thanikachalam Apartments, No.63, Rakiappa Street, Mylapore, Chennai - 600 004. (Mob. No.94441 78456) as a sole Arbitrator to decide the dispute between the petitioner and the respondents arising out of the Dealership Agreement, dated 10.01.2019.

(b) The Arbitrator shall be paid her 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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ABDUL QUDDHOSE. J.,

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