



Arb.O.P.(Com.Div.) No.288 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.08.2023

CORAM

THE HON'BLE Mr. JUSTICE ABDUL QUDDHOSE

Arb.O.P (Com.Div.) No.288 of 2023

N.Srinivasan

... Petitioner

Versus

1.M/s.Mangai Engineers,
rep. by its Proprietrix R.Mangayarkarasi

2.R.Mangayarkarasi

3.M.Ravi

... Respondents

Prayer: Arbitration Original Petition (Commercial Division) filed under Section 11(6) of the Arbitration and Conciliation Act, 1996 to appoint an independent Sole Arbitrator to adjudicate the disputes arising between the petitioner and the respondents pursuant to the Arbitration Clause at page 8, Clause 55 in the Construction Agreement dated 06.04.2022.

For Petitioner : Mr.T.Benny Ebenezer

For Respondents : Mr.M.Saravana Kumar



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ORDER

This petition has been filed under Section 11 of the Arbitration and Conciliation Act seeking for appointment of an Arbitrator by this Court.

2.The petitioner is a Land Owner and the respondents are the builders. A Construction Agreement dated 06.04.2022 has been entered into between the petitioner and the respondents. There seems to be a dispute arising out of the same. There is an Arbitration Clause available in the Construction Agreement dated 06.04.2022, which is extracted hereunder:

'55.In case any dispute arises between the Owner and Contractor, arbitration clause exists under Arbitration and Conciliation Act, 1996 and the Arbitrator is appointed mutually by both the parties and if any parties refuse to accept to proceed or delay in appointing Arbitrator/Arbitrators the other party can file a petition before the Madras High Court for appointment of arbitrator/Arbitrators. The jurisdiction is only in Chennai '

3.In terms of the Arbitration Clause, the petitioner has invoked Arbitration by issuing notice to the respondents through his counsel on 11.03.2023. The petitioner through his counsel has also suggested a name of



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an Arbitrator. A reply has also been sent to the petitioner on 30.03.2023 suggesting the name for being appointed as an Arbitrator.

4.Since there is no consensus between the parties with regard to the name of the Arbitrator, the petitioner has filed this petition under Section 11 of the Arbitration and Conciliation Act seeking for appointment of an Arbitrator.

5.Till date, counter affidavit has not been filed by the respondents. In view of the fact that the respondents themselves have admitted the existence of the Arbitration Clause and have suggested a name of the Arbitrator, this Court will have to necessarily appoint an Arbitrator as there is no consensus between the parties with regard to the name of the Arbitrator.

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

(a)This Court appoints Mr.Arun Karthik Mohan, having Office at



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New No.161/1, Kanakashree Apartments, 1st Floor, V.M.Street, Jagadambal Colony, 2nd Street, Royapettah, Chennai – 600 014 (Mobile 8754463801)

Advocate as the Sole Arbitrator to decide the dispute between the petitioner and the respondents arising out of the Construction Agreement dated 06.04.2022, on merits and in accordance with law.

(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.

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Index:Yes/No

Speaking/Non-speaking orders



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ABDUL QUDDHOSE, J.

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