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ARB.O.P.(Com.Div) No.271 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.08.2023

CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

Arb.O.P.(Com.Div) No.271 of 2023

M/s.Johnson Lifts Private Limited,
Rep. by its Authorized Signatory
Mr.Rose Blessed King,
No.1, East Main Road,
Anna Nagar West Extension,
Chennai – 600 101.

... Petitioner

Vs.

M/s.A.P. Constructions India Private Limited,
Rep. herein by its Managing Director,
Mr.Shivakumar,
No.145, 17th Main Road,
Anna Nagar West,
Chennai – 600 040.

... Respondent

Prayer : Arbitration Original Petition (Commercial Division) filed under Section 11(6)(b) of the Arbitration and Conciliation Act, 1996, praying to appoint an Arbitrator to adjudicate the disputes that have arisen between the petitioner and the respondent under the Contract/Work Order bearing Order No.JL/52/TN01/01303/E/B01 dated 28.07.2015.



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For petitioner : Mr.A.R. Karunakaran

For respondent : No appearance

ORDER

This petition has been filed under Section 11 of the Arbitration and Conciliation Act, 1996, seeking for appointment of an Arbitrator.

2. The petitioner is a manufacturer of elevators. They have supplied elevators to the respondent pursuant to the Work Order dated 28.07.2015 issued by the respondent in their favour. They had also raised an invoice dated 09.02.2017 on the respondent for making the necessary payment. The Work Order dated 28.07.2015 contains the terms and conditions which includes an arbitration clause and the same is extracted hereunder:-

“ARBITRATION:

In case of any dispute between us, the matter shall have to be settled by arbitration in Chennai by an arbitrator appointed by Johnson Lifts and courts in Chennai city shall have exclusive jurisdiction.”



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3. In respect of the invoice dated 09.02.2017 raised by the petitioner to the respondent, there remains a balance still due and payable by the respondent to the petitioner. The petitioner has invoked arbitration by issuing a notice to the respondent on 22.04.2023. Despite receipt of the said notice, the respondent has neither chosen to send a reply nor have they agreed for arbitration. In such circumstances, this petition has been filed under Section 11 of the Arbitration and Conciliation Act, 1996.

4. A notice in this petition has been duly served on the respondent and the name of the respondent is also printed in the cause list today. Despite the same, they have not entered appearance either through counsel or by themselves. Since there is a valid Arbitration Agreement between the parties and the petitioner has also invoked arbitration in accordance with the Arbitration Agreement by issuing a notice to the respondent on 22.04.2023, which has been duly acknowledged, this Court will have to necessarily appoint an Arbitrator under Section 11 of the Arbitration and Conciliation Act.



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5. For the foregoing reasons, this Court appoints Ms.Prarthana Ramesh, Advocate (Enrollment No.MS 5513/2022), as the Sole Arbitrator, to adjudicate the dispute between the petitioner and the respondent. Accordingly, this Arbitration Original Petition is allowed as prayed for, by issuing the following directions:-

(a) This Court appoints Ms.Prarthana Ramesh, Advocate (Enrollment No.MS 5513/2022), having office at No.24, Judge Jambilligam Road, Mylapore, Chennai, Mobile No.:8190008900, as a Sole Arbitrator, to adjudicate the dispute between the petitioner and the respondent arising out of the Work Order dated 28.07.2015.

(b) The Arbitrator shall be paid her 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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(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 order
Internet: Yes/No

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ABDUL QUDDHOSE, J.

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