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ARB.O.P.(Com.Div) No.303 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.09.2023

CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

Arb.O.P.(Com.Div) No.303 of 2023

Mr.S. Asokan

... Petitioner

Vs.

Mr.G. Sankaran

... Respondent

Prayer : Arbitration Original Petition (Commercial Division) filed under Section 11(4) of the Arbitration and Conciliation Act, 1996, praying to appoint an Arbitrator to adjudicate and resolve the disputes through arbitral proceedings between the parties.

For Petitioner : Mr.K.T. Sankar Subramanian

For Respondent : Mr.N. Akash

ORDER

This petition has been filed under Section 11(4) of the Arbitration and Conciliation Act, seeking for appointment of an Arbitrator by this Court.



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2. The petitioner and the respondent have entered into a registered Sale Agreement dated 06.07.2015, registered as Document No.2754/2015 on the file of SRO, Poonamallee. Under the Sale Agreement, the petitioner is the purchaser and the respondent is the seller. The petitioner seems to have paid a substantial advance under the said Agreement. According to the petitioner, the respondent did not come forward to execute the Sale Deed as per the Sale Agreement dated 06.07.2015. The respondent has lodged a complaint with the Deputy Superintendent of Police on 04.02.2020. A notice has also been issued by the respondent on 12.04.2022, calling upon the petitioner to come and cancel the Sale Agreement dated 06.07.2015 and a reply was sent by the petitioner to the said notice on 22.04.2022, denying the allegations of the respondent. There is an arbitration clause available in the Sale Agreement dated 06.07.2015, which is extracted hereunder:-

“Any dispute arising out of this Agreement will be settled through the arbitration proceedings in accordance with the provisions of the Arbitration and Conciliation Act, 1996, the venue of Arbitration in Chennai.”



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3. The petitioner has invoked arbitration in accordance with the arbitration clause by issuing notice to the respondent on 20.06.2023. No reply has been sent to the said arbitration invocation notice by the respondent. Only under the aforementioned circumstances, this petition has been filed under Section 11 of the Arbitration and Conciliation Act, seeking for appointment of an Arbitrator by this Court.

4. Notice was issued to the respondent in this petition. The respondent has entered appearance and is represented by a learned counsel. As seen from the earlier proceedings dated 09.08.2023, the respondent took time for filing counter-affidavit in this petition. Thereafter, the matter was directed to be listed today for counter and disposal.

5. The learned counsel for the respondent is present but he seeks further time for filing counter-affidavit. However, at the same time, he is not disputing the arbitration clause contained in the Sale Agreement dated 06.07.2015, which is the subject matter of dispute between the parties.



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6. While that be so, this Court is of the considered view that no useful purpose will be served, if further time is granted for the respondent to file his counter-affidavit. Since there is an Arbitration Agreement between the parties which is found in the Sale Agreement dated 06.07.2015, which is the subject matter of dispute and the petitioner has also invoked the said arbitration clause by issuing notice to the respondent on 20.06.2023 and since there is no consensus between the parties with regard to the name of the Arbitrator, this Court will have to appoint an Arbitrator under Section 11 of the Arbitration and Conciliation Act.

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

- (a) This Court appoints Hon'ble Mr. Justice T. Ravindran, Former Judge of this Court, residing at New No.27, Old No.12, 3rd Avenue, Indira Nagar, Adyar, Chennai – 20, Mobile No.9941350926, as the Sole Arbitrator to adjudicate the dispute between the petitioner and the respondent arising out of the Sale Agreement dated 06.07.2015, on merits and in accordance with law.



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(b) The Arbitrator shall be paid his remuneration/fees as per the schedule agreed upon by both the parties to the dispute.

(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.

01.09.2023

Index: Yes/ No
Speaking/Non-speaking order
Internet: Yes/No
Neutral Citation: Yes/No

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ABDUL QUDDHOSE, J.

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