



WEB COPY



ARB.O.P.(Com.Div) No.360 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.09.2023

CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

Arb.O.P.(Com.Div) No.360 of 2023

1.Madhavi

2.Sarala Devi

... Petitioners

Vs.

G F M Retail Private Ltd.,
Represented by its Managing Director,
No.2, 4th Cross Street, 1st Main Road,
S V S Nagar, Valasaravakkam,
Chennai - 600 087.

... Respondent

Prayer: Arbitration Original Petition (Commercial Division) filed under Section 11(6) of the Arbitration and Conciliation Act, 1996, praying to appoint a Sole Arbitrator for resolution of the dispute between the petitioners and respondent under the Arbitration Clause Cl.XIII.2 of the Franchise Agreement, dated 24.06.2022 to conduct the arbitration proceedings.



ARB.O.P.(Com.Div) No.360 of 2023

WEB COPY

For Petitioners : Mr.R.N. Kasi Viswanathan

For Respondent : Set *exparte*

ORDER

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

2. The respondent has been duly served in this petition. The name of the respondent is also printed in the cause list today. Despite the same, they have chosen not to enter appearance before this Court. Hence, the respondent is set *exparte* by this Court.

3. The petitioners have entered into a Franchise Agreement dated 24.06.2022 with the respondent. According to the petitioners, certain sums of money are due and payable by the respondent to the petitioners under the said Franchise Agreement. There is an arbitration clause in the



ARB.O.P.(Com.Div) No.360 of 2023

Franchise Agreement dated 24.06.2022, which is extracted hereunder:

WEB COPY

“2. Arbitration: *In the event of disputes that both parties are unable to solve through mutual discussion and compromise, the same shall be referred to a sole arbitrator, to be appointed by the Company, as per the provisions of the Indian Arbitration and Conciliation Act, 1996. The outcome of the Arbitration shall be final and binding on both parties. The seat of arbitration shall be Chennai and the language of Arbitration shall be English.*

3. Jurisdiction: *The parties hereby agree and shall submit to the exclusive jurisdiction of the Courts at Chennai, Tamilnadu.”*

4. The petitioners have invoked arbitration in accordance with the arbitration clause by sending notice to the respondent on 02.05.2023. A reply has also been received from the respondent on 23.05.2023. Since there has been no consensus between the parties with regard to name of the Arbitrator, the petitioner has filed this petition, seeking for appointment of an Arbitrator by this Court.



ARB.O.P.(Com.Div) No.360 of 2023

WEB COPY

5. Since there exists a valid arbitration clause in the Franchise Agreement dated 24.06.2022 and since there is no consensus between the parties with regard to the name of the Arbitrator, as seen from the reply sent by the respondent dated 23.05.2023, this Court will have to necessarily appoint an 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.Mohammed Fayaz Ali, Government Advocate, having Office at No.17, Sait Colony, 1st Street, Egmore, Chennai – 8, Mobile No: 9003237483, as the Sole Arbitrator to adjudicate the dispute between the petitioners and the respondent arising out of the Franchise Agreement dated 24.06.2022, on merits and in accordance with law.

(b) The Arbitrator shall be paid his remuneration/fees in accordance with the IV Schedule of the Arbitration and Conciliation Act, 1996.



ARB.O.P.(Com.Div) No.360 of 2023

WEB COPY

(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.

22.09.2023

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

Sni



WEB COPY



ARB.O.P.(Com.Div) No.360 of 2023

ABDUL QUDDHOSE, J.

Sni

Arb.O.P.(Com.Div) No.360 of 2023

22.09.2023