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Arb. O.P. (Com. Div.) No.408 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.09.2023

CORAM

THE HON'BLE Mr. JUSTICE ABDUL QUDDHOSE

Arb.O.P (Com.Div.) No.408 of 2023

M/s.Code

Rep. by its Authorized Signatory

Sivakumar

... Petitioner

VS.

Marvel Interiors

Rep. by Mr.Mohammed Faruk

... Respondent

Prayer : Arbitration Original Petition (Commercial Division) filed under Section 11(5) of the Arbitration and Conciliation Act, 1996 to appoint Arbitrator to decide the dispute and differences between the petitioner and the respondent in terms of Work Order No.Federal/9, dated 23.07.22 and 07.09.22, Amended Work Order No.Federal/10 dated 24.09.22 and Revised Work Order No.Federal/48, dated 04.01.23.

For petitioner	: Ms. Anbarasi Rajendran for M/s.AAV Partners
For respondent	: Mr.J. Harikrishna

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.



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2. The petitioner has been awarded a Contract. The respondent was appointed as its Sub-Contractor. There seems to be a dispute arising out of the Work Orders, dated 23.07.2022, 07.09.2022, 24.09.2022, 04.01.2023 issued by the petitioner in favour of the respondent.

3. In the aforementioned Work Orders, there is an arbitration clause which is extracted hereunder :

Arbitration Clause :

All disputes arising out of this contract will be subjected to the jurisdiction court of Chennai. Sole arbitration shall be fixed both the parties concern and the award shall be the final judgment for the dispute arise between the parties.

4. The petitioner has also invoked the arbitration in accordance with the arbitration clause by sending a notice to the respondent on 31.03.2023. The respondent has also duly acknowledged the same, as seen from the acknowledgment card. Infact, the petitioner had earlier approached this Court under Section 9 of the Arbitration and Conciliation Act, 1996 by filing O.A. Nos.338 and 339 of 2023. Interim injunction was also granted by this Court in the said applications in favour of the petitioner on 20.04.2023. No counter has also been filed in



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this petition seeking for appointment of an Arbitrator. The learned counsel for the respondent has also not raised any serious objection for appointment of the Arbitrator by this Court.

5. Since there is a valid Arbitration agreement between the parties under the aforementioned Work Orders and the petitioner has also invoked the arbitration in accordance with the arbitration clause and there is no consensus between the parties with regard to the Arbitrator, this Court will have to necessarily appoint an Arbitrator to adjudicate the dispute between the parties arising out of the aforementioned Work Orders.

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

a) This Court appoints Mr.Yashod Vardhan, the learned Senior Advocate, who is having office at No.21/8, Seventh Main Road, R.A.Puram, Chennai - 600 028, (Mobile No.9841075397) as a sole Arbitrator to adjudicate the dispute between the parties arising out of the aforementioned Work orders.



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(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.

05.09.2023

Index: Yes/ No
Speaking order / Non speaking order
Neutral citation : Yes / No
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ABDUL QUDDHOSE, J.

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