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Arb.O.P.(Com. Div.) No.365 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.08.2023

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THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

Arb.O.P.(Com. Div.) No.365 of 2023

and

Arb. Appln.No.389 of 2023

Faiza Hospitality and Catering Services,
Rep. by its Partner Mr.Rajesh Pawar,
Buno and Kaffa, Opp. Gate No.6,
Terminal -3, Departure Area,
IGI Airport, New Delhi - 110 037.

... Petitioner

Vs.

1. Airports Authority of India,
Rep. by its Chairman,
'C' Block, Rajiv Gandhi Bhavan,
Safdarjung Airport,
New Delhi - 110 003.

2. Regional Executive Director,
Airports Authority of India,
Southern Region,
Chennai - 600 027.

3. Airport Director,
Airports Authority of India,
Madurai Airport,
Madurai - 625 022.

... Respondents



PRAYER: Petition filed under Section 11 of the Arbitration and Conciliation Act, 1996 to appoint an impartial and independent Arbitrator to adjudicate the disputes prevailing between the petitioner and the respondents, in view of the existence of an Arbitration agreement in the form of Article 22 of the Contract Agreement dated 06.04.2023 entered between the parties.

For Petitioner : Mr.I.Jayasingh Manoharan

For Respondents : Mr.Arun C.Mohan
for Mr.K.Venkatesan

ORDER

Both the learned counsels on instructions from their respective clients have given their consent for appointment of an arbitrator by this Court. They have made an endorsement to that effect in the Court bundle. This Court has expressed its view to the counsel for the applicant that this Court does not have jurisdiction to entertain the application filed by the applicant under Section 9 of the Arbitration and Conciliation Act, 1996 in Arb. Appln.No.389 of 2023, since the cause of action arose either at Madurai or at New Delhi and no part of cause of action arose at Chennai within the jurisdiction of this Court.



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2. The learned counsel for the applicant on instructions has agreed to the view expressed by this Court. However, he seeks liberty of this Court to approach the arbitral tribunal under Section 17 of the Arbitration and Conciliation Act, 1996, seeking for a similar relief as sought for in Arb. Appln.No.389 of 2023.

3. The learned counsel for the respondents would also submit that once such an application is filed, the respondents may be granted liberty to raise the objections that have been raised in this application before the arbitral tribunal.

4. A joint endorsement in terms of the above has been made by both the counsels on instructions from their respective clients. In view of the fact that this Court does not have jurisdiction to decide the application filed by the applicant under Section 9 of the Arbitration and Conciliation Act, the interim order granted earlier in favour of the applicant on 27.07.2023 shall stand vacated.



5. In view of the joint endorsement, the following directions are issued:

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a) Honourable Mr.Justice V.Parthiban, Former Judge of this Court, having office at No.5069, 12th Street, Z Block, Anna Nagar, Chennai - 600 040 (Mob. No.94440 94401) is appointed as the sole arbitrator to adjudicate the dispute between the petitioner and the respondents arising out of the Concession Agreement dated 06.04.2023;

b) The sole arbitrator shall be paid his fees / cost by mutual agreement of both the parties to the dispute;

c) The sole arbitrator shall adhere to the provisions of the Arbitration and Conciliation Act, 1996;

d) The sole arbitrator shall complete the arbitration within the specified period as stipulated under the Arbitration and Conciliation Act.

e) Both the parties to the arbitration shall equally share the fees payable to the arbitrator;

f) The interim order dated 27.07.2023 passed in Arb. Appln.No.389 of 2023 shall stand vacated. However, liberty is granted to the applicant to approach the arbitrator, once the arbitrator has acted upon the reference, seeking for a similar relief as prayed for in Arb. Appln.No.389 of 2023 by



filing an application under Section 17 of the Arbitration and Conciliation Act.

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g) Liberty is granted to the respondents to raise all the objections raised in this application before the arbitrator, once an application is filed by the applicant under Section 17 of the Arbitration and Conciliation Act, 1996;

h) The arbitrator shall independently decide the said application under Section 17 of the Arbitration and Conciliation Act, 1996 once the same is filed.

6. With the aforesaid directions, this Arbitration Original Petition is disposed of. No Costs. Consequently, the connected application is closed.

31.08.2023

Index : Yes/No
Speaking Order : Yes / No
Neutral Citation Case: Yes / No
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ABDUL QUDDHOSE. J.,

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