



Arb.O.P.(Com.Div.)No.416 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.11.2023

CORAM :

THE HONOURABLE MR.JUSTICE C.SARAVANAN

Arb.O.P.(Com.Div.)No.416 of 2023

M/s.Ohm Sakthi Hotel and Convention Centre
Private Limited,
Represented by its Managing Director

... Petitioner

Vs.

1.Thirunavukkarasu

2.M/s.Anandha Inn Private Limited,
Represented by its Managing Director

3.Thirunavukkarasu

4.Radjaradjane

5.Saroja

6.Arulkumaran

... Respondents

Prayer: Original Petition is filed under Section 11(6) of the Arbitration and Conciliation Act, 1996 read with Section 10(2) of the Commercial Court, Commercial Division and Commercial Appellate Division of the High Courts Act, 2015, praying to constitute an Arbitral Tribunal by appointing an Arbitrator, inconsonance with Clause-23 of the Primary Lease Deed dated



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10.04.2017 and Movable Lease Deed dated 10.05.2017, wherein the parties had agreed to refer the dispute to Arbitration.

For Petitioner : Mr.V.Kamala Kumar

For Respondents : Mr.Anish Gopi

ORDER

This petition has been filed by the petitioner to constitute an Arbitral Tribunal by appointing an arbitrator under Section 11(6) of the Arbitration and Conciliation Act, 1996 read with Section 10(2) of the Commercial Court, Commercial Division and Commercial Appellate Division of the High Courts Act, 2015.

2. The dispute is arbitrable in terms of an Arbitration Clause in the Lease Agreement dated 10.05.2017 between the petitioner and the second respondent.

3. Relevant clause reads as under:-

"23. Arbitration:

In the event of any dispute between the parties, the parties shall attempt to amicably settle in through negotiations. In case the negotiation fails, the dispute shall be referred to an arbitrator to be mutually appointed by the parties.



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That, in the event of any disputes arising out of any of the stipulations contained hereunder, the parties shall submit themselves to a process of arbitration at Pondicherry in accordance with the laws on force in India. The proceedings of the Arbitration shall be in English. The decision of the arbitrator shall be final and binding. Further, in the event of failure of the process of arbitration to resolve the disputes arising out of this contract the parties shall be entitled to seek remedy from a court of competent jurisdiction at Pondicherry."

4. The learned counsel for the respondents would submit that the respondents have no objection for appointing an arbitrator as the dispute is only between the petitioner and the second respondent and therefore the other respondents need not be made as a party to the proceedings.

5. Since the Lease Agreement is only between the petitioner and the second respondent, the dispute under the Agreement can alone be resolved by way of arbitration only between them.

6. As far as the dispute with the other respondents are concerned, it is open for the petitioner to workout the remedy separately. Therefore, with the consent of the learned counsel for the petitioner and the respondents, **The**



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Hon'ble Mr.Justice.G.Rajasuria (Retd.), Former Judge of Madras High

Court residing at N0.31, III Cross Street, Brindavanam, Puducherry - 605

013, (Mobile No.9445000864) is appointed as a sole Arbitrator to enter upon reference and to resolve the *inter se* dispute between the parties. It is made clear that the order will not passed without prejudice to the pending proceedings.

7. The learned Arbitrator appointed herein, shall after issuing notice to the parties and upon hearing them, endeavour to complete the arbitral proceedings and pass an award strictly in accordance with the provisions of the Arbitration and Conciliation Act, 1996, as expeditiously as possible, preferably within a period of twelve months after the date of completion of pleadings under Sub-Section 4 to Section 23 as is contemplated in Section 29-A of the Arbitration and Conciliation Act, 1996, without getting influenced by any of the observations made by this Court in this order.

8. The learned Arbitrator appointed herein shall be paid fees and other incidental charges as may be fixed with the consent of parties or in accordance with the provisions of the Arbitration and Conciliation Act, 1996, and the same shall be borne by the parties equally. In case, the respondents remain *ex parte*,



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the petitioner shall pay the entire fee and other incidental charges to the Arbitrator and later recover the same from the respondents.

9. This Original Petition is allowed accordingly, leaving the parties to bear their own costs.

10. Since this Court has appointed the Arbitrator, it is open to the petitioner as well as the respondents to seek other reliefs under Section 17 of the Arbitration and Conciliation Act, 1996, before the learned Arbitrator.

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Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation : Yes/No

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C.SARAVANAN, J.



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