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Arb.Original Petition (Com.Div.) No.26 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.03.2023

CORAM:

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

Arb.Original Petition (Com.Div.) No.26 of 2023

M.Balagopal, Proprietor,
Green Waves,
I Block, No.25, Plot No.1903,
"SANKULAM" Ground Floor,
38th Street, Anna Nagar West,
Chennai - 600 040.

... Petitioner

Vs.

M/s.NSK Bearings India Pvt. Ltd.,
Plot No.A2, Oragadam Growth Centre,
Mathur Village, Sriperumpudur,
Kancheepuram - 602 105.

... Respondent

PRAYER: The Original Petition has been filed under Section 14 (1) (b) read with Section 15 (1) (a) of the Arbitration and Conciliation Act, 1996, to substitute the Arbitrator in the place of present Arbitrator Mr.Rajamanickam, Advocate, who has withdrawn from the proceedings to adjudicate the dispute between the applicant and the respondent that have arisen due to non-payment of final bill pertaining to Landscaping and Gardening One Time Implementation and Monthly Maintenance Contract dated 26.12.2019.



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For Petitioner : Mr.M.Baskaran

For Respondent : Mr.S.Ravi, Senior Counsel
for M/s.Gupta and Ravi

ORDER

The present Original Petition has been filed under Section 14 (1) (b) read with Section 15 (1) (a) of the Arbitration and Conciliation Act, 1996, to substitute a Arbitrator in the place of present Arbitrator viz., Mr.Rajamanickam, Advocate, who has withdrawn from the proceedings to adjudicate the dispute between the applicant and the respondent.

2. The learned counsel appearing for the petitioner submits that during the cross examination in the arbitration proceedings, the learned counsel representing the applicant raised objections and to that effect, he has also filed a memo dated 01.03.2022 requesting the sole Arbitrator to follow the procedures. But the learned Arbitrator, by his order dated 02.03.2022 rejected the memo filed by the learned counsel representing the applicant. Thereafter, the learned counsel representing the applicant filed a detailed memo on 02.03.2022 expressing his legitimate expectation to conduct the case in accordance with the procedures laid down by the law, also highlighting certain incidents which



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warrants for equal treatment of parties and requested the learned Arbitrator to conduct the arbitration proceedings in all fairness, whereas, the learned Arbitrator vide letter dated 17.03.2022 informed the parties about his resignation "due to personal reasons" and hence, he would not continue the arbitration proceedings.

3. The learned counsel for the petitioner also submits that in spite of resignation letter given by the learned Arbitrator, the respondent has not chosen to take any measures for continuation of the arbitration proceedings till date. Hence, without any other option, he has filed the present petition to substitute the Arbitrator in the place of present Arbitrator.

4. Mr.S.Ravi, learned Senior Counsel appearing for the respondent has raised certain issues citing the activities of the petitioner. However, he would fairly admit to substitute a new Arbitrator.

5. Being satisfied with the reasons stated in the affidavit filed in support of the petition, upon hearing the learned counsel appearing on either side, this Court is inclined to substitute a new Arbitrator in the place of present



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Arbitrator. Accordingly, ***Mrs.Shirijha, Advocate, residing at No.2/669 A, River View Colony, 1st Main Road, Manapakkam, Chennai - 600 125, Mobile No.99401 95896,*** is appointed as new Arbitrator to enter upon reference and adjudicate the disputes *inter se* the parties. The learned Arbitrator appointed herein, shall after issuing notice to the parties and upon hearing them, pass an award as expeditiously as possible, preferably within a period of six (6) months from the date of receipt of the Order. The learned Arbitrator appointed herein shall be paid fees and other incidental charges, fixed by her and the same shall be borne by the parties equally.

6. This Original Petition is ordered accordingly, leaving the parties to bear their own costs. Since this Court has substituted a new Arbitrator, it is open to the parties to seek other reliefs under the provisions of Arbitration and Conciliation Act 1996 before the learned Arbitrator.

30.03.2023

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KRISHNAN RAMASAMY, J.

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