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Arb.O.P(Com.Div.)No.467 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.11.2023

CORAM :

THE HONOURABLE MR.JUSTICE C.SARAVANAN

Arb.O.P.(Com.Div.)No.467 of 2023

M/s.TSR Films Private Limited,
Represented by its Authorized Signatory
M.V.Ravindranath

... Petitioner

Vs.

M/s.GK Merlin,
No.13, Muthamman Kovil Street,
Ayanavaram, Chennai - 600 023.

... Respondent

Prayer: Original Petition is filed under Section 11(5) read with Section 10(2) of the Arbitration and Conciliation Act, 1996, praying to appoint an sole Arbitrator to resolve the dispute between parties arising out of the Agreement dated 25.03.2019.

For Petitioner : Mr.Prajeeth Prem Kumar for
M/s.D.R.Law Chambers

For Respondent : No Appearance



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ORDER

This petition has been filed by the petitioner for appointing an arbitrator under Section 11(5) read with Section 10(2) of the Arbitration and Conciliation Act, 1996.

2. It is noticed that the Court Notice ordered has been returned. However, private notice has been served as is evident from the Affidavit of Service and the Tracking Consignment Note downloaded by the petitioner from the website of the Postal Department.

3. The notice taken out by the petitioner on 29.09.2023 has been delivered on the respondent on 30.09.2023.

4. Considering the above, it is deemed that there is a proper service of notice on the respondent.

5. The dispute is governed by an Agreement entered into between the petitioner and the respondent 25.03.2019.



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6. Clause 15 deals with the mechanism for resolving the dispute through arbitration. It reads as under:-

"15. Jurisdiction and Dispute Resolution:

This Agreement will be covered by the courts in Chennai and will be governed by the laws of India. In the event of any dispute or difference arising at any time between the parties hereto as to the construction, meaning or effect of this agreement or any clause or thing contained herein or the rights, duties, liabilities and obligations of the parties here to, the same shall be referred to the arbitration of a Sole Arbitrator appointed by the TSR Films and whose decision shall be final and binding on the parties. The Arbitration Proceedings shall be in accordance with the Arbitration and Conciliation Act, 1996 and/or any statutory modification or re-enactment thereof for the time being in force. The venue of such arbitration shall be at Chennai only and the courts at Chennai alone shall have the sole and exclusive jurisdiction. The language so used in the Arbitral Proceedings shall be English."

7. The petitioner has also issued a Legal Notice to the respondent on 14.03.2023 prior to institution of this petition, which was also delivered on the respondent on 15.03.2023.

8. As per the aforesaid notice, the respondent was called upon to return the equipments and to pay the petitioner business/revenue loss of Rs.86,40,000/- along with the interest at 24% per annum.



9. This Court is of the view that this is a fit case for appointing an arbitrator.

10. In view of the above, this Court is inclined to appoint **Mr.V.G.Suresh Kumar, Advocate, Enrollment No.1014/1990, having Office at 104, Law Chambers, High Court Buildings, Chennai - 600 104, (Mobile No.9840387117),** as an arbitrator to enter upon reference and adjudicate/resolve the *inter se* dispute between the parties.

11. 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.

12. 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



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with the provisions of the Arbitration and Conciliation Act, 1996, and the same shall be borne by the parties equally. In case, the respondent remains *ex parte*, the petitioner shall pay the entire fee and other incidental charges to the Arbitrator and later recover the same from the respondent.

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

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

07.11.2023

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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