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Arb.O.P. (Com.Div.) No.427 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.11.2023

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THE HONOURABLE MR.JUSTICE C.SARAVANAN

Arb.O.P.(Com.Div.)No.427 of 2023

and

Arb.Appln.No.419 of 2023 and Appln.No.6173 of 2023

Mr.Praveen Manavalan,
Represented by his Power of Attorney Agent,
Mrs.Tharini Manavalan,
W/o.Mr.Praveen Manavalan,
Flat No.1 A, Ramanyam Saraswathi,
B-17, 22nd Cross Street, Besant Nagar,
Chennai – 600 090.

.. Petitioner

Vs.

Mr.Maurius Anton Chrislyn Cardoza

.. Respondent

Prayer: Original Petition is filed under Section 11(6) of the Arbitration and Conciliation Act, 1996, praying to appoint an Arbitrator to adjudicate the disputes between the petitioner and the respondents in terms of the Memorandum of Agreement dated 22.03.2023 and to direct the respondent to pay costs of this proceedings.



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For Petitioner : M/s.D.Ferdinand
For Respondent : Mr.T.Mohan
Senior Counsel for
Mr.N.Alagu Narayanan for
M/s.RRN Legal

ORDER

This petition has been filed under Section 11(6) of the Arbitration and Conciliation Act, 1996 to appoint an Arbitrator to adjudicate the disputes between the petitioner and the respondents in terms of the Memorandum of Agreement dated 22.03.2023 and to direct the respondent to pay costs of this proceedings.

2. Incidentally, there is a connected petition filed by the same petitioner in Arbitration Original Petition No.428 of 2023 against the company which the respondent herein is the Director. The respondent in the present Arbitration Original Petition No.427 of 2023 has also entered into a Memorandum of Agreement dated 30.03.2023 to repay the loan by the respondent in Arbitration Original Petition No.428 of 2023. The time for repaying the amount under the aforesaid Memorandum of Agreement dated 30.03.2023 is 31.12.2023.



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3. In case, the amounts are not paid by the respondent under the Memorandum of Agreement dated 30.03.2023, the parties agree that the same arbitrator may be appointed as a Arbitrator in the Arbitration Original Petition No.428 of 2023.

4. Both the parties consent for appointment of Mr.P.Giridharan, Advocate as an Arbitrator to resolve the dispute between the parties. Recording the consent, Court is inclined to pass the following order in Arb.O.P.(Com.Div)No.427 of 2023:-

(i) **Mr.P.Giridharan, Advocate, (Ms.No.1418/2007) (Mobile No.:98846 72733) residing at Vanguard House, 3rd Floor, No.48, Second Line Beach, Parrys, Chennai – 600 001,** is appointed as an Arbitrator to enter upon reference and adjudicate / resolve the *inter se* dispute between the parties.

(ii) 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.

(iii) 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*, the petitioner shall pay the entire fee and other incidental charges to the Arbitrator and later recover the same from the respondents.

5. The parties are at liberty to workout the venue for Arbitration at Chennai.

6. The Arbitration Original Petition No.427 of 2023 is allowed, with the above observations, leaving the parties to bear their own costs.



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7. Since the Court has appointed an 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.

8. Arbitration Original Petition No.427 of 2023 thus stands allowed. Consequently Arbitration Application No.419 of 2013 and Application No.6173 of 2023 are also closed. No costs.

9. Order in Arbitration Original Petition No.428 of 2023 will be passed subject to further subsequent development.

10. List the Arbitration Original Petition No.428 of 2023, Arbitration Application No.418 of 2023 and and Application No.6172 of 2023 on 02.01.2024.

23.11.2023

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Index : Yes / No

Internet : Yes / No

Neutral Citation : Yes / No



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