



WEB COPY



Arb.Original Petition (Com.Div.) 677 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.03.2023

CORAM:

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

Arb.Original Petition (Com.Div.) No.677 of 2022

M.Ravichandran

... Petitioner

Vs.

A.Selvaraj

... Respondent

PRAYER: The Original Petition has been filed under Section 11 (6) of Arbitration and Conciliation Act, 1996, to appoint a Sole Arbitrator to adjudicate the disputes arisen between the petitioner and the respondent and direct the respondent to pay the costs of this petition.

For Petitioner : Mr.Ashokapathy
for M/s.Pass Associates

For Respondent : Mr.P.Vasantha Kumar

- - - - -



WEB COPY



Arb. Original Petition (Com.Div.) 677 of 2022

ORDER

The present Original Petition has been filed to appoint a Sole Arbitrator to adjudicate the disputes arisen between the petitioner and the respondent and direct the respondent to pay the costs of this petition.

2. The learned counsel for the petitioner submits that the petitioner and the respondent are the Partners of "R.R.MOTORS" and they have entered into a Deed of Partnership dated 19.10.2019. According to the applicant, since there is a dispute between them, the respondent expressed his desire to retire from the partnership. Hence, the applicant has issued a notice under Section 21 dated 12.11.2022 and the same has been received by the respondent. Since no consensus has been arrived among the partners, the present petition has been filed. He further submits that in terms of the following Clause, the present dispute can be referred to the Arbitrator.

"JURISDICTION"

That the jurisdiction will be at TAMILNADU courts only and the provisions of the INDIAN PARTNERSHIP ACT, 1932 shall apply, in the case of differences, dispute or doubts among the parties hereto,



Arb.Original Petition (Com.Div.) 677 of 2022

provisions of the INDIAN ARBITRATION ACT, 1940 or any latest Indian Arbitration Act. If any enforce shall apply."

By referring the said Clause, the learned counsel appearing for the petitioner submits that the present dispute squarely falls within the scope of Partnership Agreement dated 19.10.2019. Therefore, a Sole Arbitrator may be appointed to resolve the disputes that have arisen between the parties.

3. Per contra, the learned counsel appearing for the respondent would submit that the petitioner has consistently withdrawn amounts without the consent of the respondent and transferred the same to his family members and to an unauthorised loan availed by the petitioner from Bajaj Finance Ltd. and the petitioner has set up a false case and has resorted to invoke the Arbitration Clause in the Partnership Deed dated 19.10.2019.

4. In reply, the learned counsel appearing for the petitioner submits that in Paragraph No.3 of the Notice under Section 21, it has been clearly stated that due to preoccupation with other businesses, the respondent was not able to look after the business. Therefore, he agreed to retire from Partnership.



Arb.Original Petition (Com.Div.) 677 of 2022

WEB COPY

5. The learned counsel for the petitioner further submits that his client has not at all agreed for retirement as narrated in Paragraph No.3 of the notice.

6. Heard the learned counsel appearing on either side and perused the materials placed before this Court.

7. Considering the facts and circumstances of the case, this Court is inclined to appoint a sole Arbitrator to decide the issue that is involved in this case and accordingly, ***Mr.R.Balachandran, Chartered Accountant, residing at Flat 3B, Third Floor, III Block, Bajaj Apartments, 4, Nandanam Extn. First Main Road, Nandanam, Chennai - 600 035, Mobile No.9884350000 and 9444258090***, is appointed as 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.



Arb. Original Petition (Com.Div.) 677 of 2022

WEB COPY

8. The learned counsel appearing for the petitioner submits that in terms of Arbitration Clause, the jurisdiction will be at Tamilnadu Courts. Hence, he requests to conduct the arbitration proceedings in the Arbitration and Conciliation Centre, High Court of Madras. Considering the request of the learned counsel appearing for the petitioner, the arbitration shall be conducted in the Arbitration and Conciliation Centre under the aegis of this Court (MHCAC) in accordance with the Madras High Court Arbitration Proceedings Rules, 2017. The learned Sole Arbitrator appointed herein shall be paid fees and other incidental charges, fixed by him and the same shall be borne by the parties equally.

9. This Original Petition is ordered accordingly, leaving the parties to bear their own costs. It is open to the parties to raise all the issues, which have been put forth before this Court and the learned Arbitrator is directed to decide the issue between the parties on his own, without taking any observation made in this order.

16.03.2023

asi

Note: Issue order copy on 20.03.2023



WEB COPY



Arb.Original Petition (Com.Div.) 677 of 2022

KRISHNAN RAMASAMY, J.

asi

Arb.Original Petition (Com.Div.) No.677 of 2022

16.03.2023