



Arb.O.P (Com.Div.) No.3 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.06.2024

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

Arb.O.P (Com.Div.) No.3 of 2024

1.Pranav Visweswaran
2.Varun Visweswaran
3.Naeha Visweswaran
4.Anuradha Visweswaran

... Petitioners

Vs.

P.Vanishree

... Respondent

Prayer:

Arbitration Original Petition filed under Section 11(5) of the Arbitration and Conciliation Act, 1996 to appoint an Arbitrator to adjudicate the disputes between the petitioners and the respondent in terms of Partnership Deed dated 26.05.2020 and to direct the respondent to pay costs of this petition;



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For Petitioners : Mr.M.S.Seshadri

For Respondent : Mr.G.Ashokapathy,
for M/s.Pass Associates

Ms.S.Suba Shiny, for R5
in CMA.No.1244 of 2024 (Not a party)

ORDER

This Arbitration Original Petition has been filed under Section 11(5) of the Arbitration and Conciliation Act, 1996, (hereinafter called as “the Act”) to appoint an Arbitrator to adjudicate the disputes between the petitioners and the respondent.

2. The learned counsel for the petitioners would submit that the dispute between the parties is arising out of the Partnership Deed dated 26.05.2020 and the said dispute is arbitrable as per the Clause 8 of the said Partnership Deed.



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3. Further, he would submit that on 12.06.2023, the petitioners had issued a notice under Section 21 of the Act, invoking arbitration, for which, the respondent sent a reply dated 01.07.2023. However, no consensus was arrived at by the parties with regard to the appointment of Arbitrator and hence, this petition has been filed by the petitioners.

4. In reply, the learned counsel for the respondent would submit that he has no objection for the appointment of Arbitrator. At this juncture, he brought to the knowledge of this Court about the appeal filed by the petitioners in CMA.No.1244 of 2024 against the order dated 30.04.2024 passed by the Court below in Section 9 application.

5. Further, he would submit that in the said CMA, the Hon'ble Division Bench of this Court had passed a judgement dated 18.06.2024, wherein at paragraph No.9, it has been recorded that the parties have agreed to appoint Mr.M.K.Kabir, learned Senior counsel, as Arbitrator to adjudicate the disputes between them.



WEB COURT

6. Today, Ms.S.Suba Shiny, learned counsel appeared before this Court and submitted that her client/Mr.P.Sivanantham, who was arrayed as 5th respondent in the said CMA, is not a party to the present petition. However, by referring the paragraph No.11 of the aforesaid judgement dated 18.06.2024, she would submit that the liberty was granted by the Hon'ble Division Bench to her client/Mr.P.Sivanantham to raise all his issues, including the question as to whether he continues as a partner in the firm or not, before the learned Arbitrator appointed by this Court. She would also submit that pursuant to the said order, her client intended to raise his issues before the learned Arbitrator and accordingly, withdrawn the suit filed by him.

7. Heard all the learned counsel, including Ms.S.Suba Shiny, who appeared for Mr.P.Sivanantham/5th respondent in the connected CMA, and also perused the entire materials available on record.

8. In the present case, it appears that the dispute between the parties is arising out of the Partnership Deed dated 26.05.2020. Upon perusal of the



said Deed, it is clear that the dispute among the parties shall be resolved by virtue of Arbitration as per the Clause 8 of the said Deed, which reads as follows:

“8. should any dispute arise between the partners in matters concerning the partnership, such dispute shall be referred to arbitration for settlement”

9. Considering the submissions made by the learned counsel for the petitioners and the respondent and also in view of the fact that the dispute between the petitioners and the respondent squarely falls within the purview of clause 8 of the Partnership Deed dated 26.05.2020, this Court is inclined to appoint a sole Arbitrator.

10. Accordingly, this Court feels it appropriate to pass the following order:

i) Mr.M.K.Kabir, Senior Advocate, No.80, Law Chambers, High Court Buildings, Chennai 600 104, Mobile No.98400 44258, is appointed as sole arbitrator to enter upon reference and adjudicate the disputes *inter se* the parties.



ii) 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 months from the date of receipt of the Order. The learned Arbitrator is also directed to decide the matter without influenced by the observations made by this Court in the present order.

iii) The learned Sole Arbitrator appointed herein shall be paid fees and other incidental charges, as per Schedule IV of the Act and the same shall be borne by the parties equally. In the event of non-appearance of the respondent, the petitioners shall bear the entire remuneration and other expenses and thereafter, the petitioners can recover the same directly from the respondent and vice versa.

iv) It is left open to the parties to raise all their issues before the learned Arbitrator and the learned Arbitrator is directed to consider all the issues independently and in accordance with law.

v) It is made clear that Mr.P.Sivanantham (5th respondent in CMA.No.1244 of 2024) is permitted to make his claims by filing a separate claim petition before the learned Arbitrator appointed by this Court.

vi) Further, the learned Arbitrator is directed to consider the Section 9 applications, which were filed by the parties



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before the Court below, as Section 17 applications and decide the same in accordance with law.

11. This Arbitration Original Petition is ordered accordingly, leaving the parties to bear their own costs. Since this Court has appointed an Arbitrator, it is open to the petitioners as well as the respondent to seek other reliefs under the provisions of Arbitration and Conciliation Act 1996 before the Arbitrator.

20.06.2024

Speaking/Non-speaking order

Index : Yes / No

Neutral Citation: Yes / No

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Note: Issue order copy on 21.06.2024.



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KRISHNAN RAMASAMY.J.,

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