



WEB COPY



Arb.O.P.(Com.Div.)No.9 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.02.2024

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

Arb.O.P.(Com.Div.)No.9 of 2024

and

O.A.No.1088 of 2023

1.Mrs.Akila Balasubramaniam
2.Ms.Krithika Balu
3.Ms.Deepika Balu

.. Petitioners

Vs.

Mr.Sunder Duraiswamy Natrajan

.. Respondent

Prayer: Original Petition is filed under Section 11(6) of the Arbitration and Conciliation Act, 1996, praying to appoint a sole Arbitrator to resolve the disputes between the parties herein with respect to the Investment Agreement dated 08.09.2021.

For Petitioners : Mr.Anupam Raghuraman

For Respondent : No Appearance



ORDER

WEB COPY

Court notice and private notice taken out on the respondent has been served. Name of the respondent is also printed in the cause list. Despite the same, there is no representation on behalf of the respondent.

2. This petition has been filed under Section 11(6) of the Arbitration and Conciliation Act, 1996 to appoint a sole Arbitrator under Investment Agreement dated 08.09.2021. The said agreement was entered into between late Mr.Padmanabhan Balasubramaniam and the respondent. The agreement signed between late Mr.Padmanabhan Balasubramaniam and the respondent herein contains a clause for resolving the dispute through Arbitration. Relevant clause reads as under:

“12.The parties of both parties would act as in accordance to the terms and conditions of this agreement and if in case there has been a dispute between them, the parties hereby accept to adopt alternative dispute resolution as in accordance with provision of the Arbitration and Conciliation Act, 1996.

13.The Investment Manager agrees to solve any dispute which arrives between him and the investor by a Sole Arbitrator who has been appointed by the investor as in accordance with the provisions of the Arbitration and Conciliation Act, 1996.

14. The parties of both part agree that the entire jurisdiction has taken place in Chennai and any dispute



WEB COPY



Arb.O.P. (Com.Div.) No.9 of 2024

which are called for should be placed before the Courts, Tribunals and Ad Hoc Tribunals in Chennai alone.”

3. The petitioners have also sent a legal notice to the respondent dated 06.07.2023 which has been received and duly acknowledged. However, the respondent failed to respond the same. Therefore, the petitioners have issued notice under Section 21 of the Arbitration and Conciliation Act, 1996 to the respondent on 12.10.2023 which has also been served on the respondent. Despite the same, the respondent has failed to respond. Before this Court also the respondent has failed to appear. The respondent has thus forfeited the rights to participate in the constitution of the Arbitral Tribunal under the agreement. This is a fit case for appointing an Arbitrator.

4. Considering the above, **Hon'ble Mr.Justice K.Venkataraman, (Retired) Former Judge of this Court**, residing at **L-Block, 125, 17th Street, East Anna Nagar, Chennai – 600 102**, is appointed as an Arbitrator to enter upon reference and adjudicate / resolve the *inter se* dispute between the parties.

5. 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.

6. 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 respondent remain *ex parte*, the petitioner shall pay the entire fee and other incidental charges to the Arbitrator and later recover the same from the respondent.

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



Arb.O.P. (Com.Div.) No.9 of 2024

8. The Original Petition is allowed with the above observations, leaving the parties to bear their own costs. Consequently, connected Original Application is also closed.

9. Since the Court has appointed an 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.

08.02.2024

jas

Index : Yes / No
Internet : Yes / No
Neutral Citation : Yes / No



WEB COPY



Arb.O.P. (Com.Div.) No.9 of 2024

C.SARAVANAN, J.

jas

Arb.O.P.(Com.Div.)No.9 of 2024
and
O.A.No.1088 of 2023

08.02.2024