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Arb.O.P(Com.Div.) No.55 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.02.2024

CORAM :

THE HONOURABLE MR.JUSTICE C.SARAVANAN

Arb.O.P.(Com.Div.) No.55 of 2024

Chitra Pawan Kumar

... Petitioner

Vs.

K.Shivashankar

... Respondent

Prayer: Original Petition is filed under Section 11(6) of the Arbitration and Conciliation Act, 1996, to appoint either the persons nominated in the notice invoking Arbitration or any other person as it deems fit as the Sole Arbitrator to resolve the disputes between the parties herein with respect to the Lease Deed dated 23.03.2016.

For Petitioner : Mr.Anupam Raghuraman
for M/s.Raman Associates

For Respondent : Mr.Kuberan
for M/s.Rank Associates

ORDER

The petitioner has filed this petition under Section 11(6) of the Arbitration and Conciliation Act, 1996, to appoint either the persons



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nominated in the notice invoking Arbitration or any other person as it deems fit as the Sole Arbitrator to resolve the disputes between the parties herein with respect to the Lease Deed dated 23.03.2016.

2. The learned counsel for the respondent would submit that the dispute between the petitioner and the respondent is not arbitrable and therefore this Original Petition has to be rejected/dismissed.

3. I have considered the arguments advanced by the learned counsel for the petitioner and the learned counsel for the respondent.

4. As per the decision of the Hon'ble Supreme Court in **Duro Felguera, S.A. Vs. Gangavaram Port Limited**, (2017) 9 SCC 729, the Court is merely expected to look into the existence of an Arbitration Clause. If it so, it has to merely appoint an Arbitrator or constitute an Arbitral Tribunal. Thereafter, all the issues have to be decided by the learned Arbitrator under Section 16 of the Arbitration and Conciliation Act, 1996.



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5. Considering the same, Court is inclined to appoint **Hon'ble Mr.Justice B.Gokuldas (Retd.), Former Judge of Madras High Court residing at No.11, Kuppusamy Pillai Street, Jesupadam Nagar, Guduvancherry, Vandalore Taluk, Chengalpattu District – 602 203, (Mobile No.94434 91924)**, as the Sole Arbitrator to enter upon reference to adjudicate/resolve the *inter se* dispute between the parties.

6. 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 29A of the Arbitration and Conciliation Act, 1996, without getting influenced by any of the observations made by this Court in this order.

7. 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



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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.

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

9. 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.

28.02.2024

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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