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Arb.O.P (Comm.Div.) No. 97 of 2024

C.V.KARTHIKEYAN, J.

This Petition has been filed taking advantage of Section 11(6) of the Arbitration and Conciliation Act, 1996 seeking appointment of an Arbitrator in accordance with Clause No.18 of the Memorandum of Agreement entered into on 08.12.2021 between the respondents on the one hand and the petitioner on the other hand.

2. The respondents herein were owners of a property which was agricultural land measuring about 3.95 acres in Ninnakarai Village, Chengalpattu Taluk, Chengalpattu District. The details of the lands have been given in the agreement. The agreement was for the purchase by the petitioner herein of the said lands. Pursuant to such agreement, the respondents had also parted with their title deeds.

3. In the petition now filed, giving the reasons why the agreement stood frustrated between the parties, it had been stated that whenever the petitioner approached the respondents to execute the sale deed, the



respondents had been evading and failed to perform their terms of the agreement. The petitioner had paid an advance of Rs.1/- crore in two tranches of Rs.50/- lakhs each by cheques drawn at ICICI Bank, Chennai by the petitioner herein.

4. A notice was issued by the petitioner owing to the reluctance of the respondents to come forward to execute the sale deed. In the said notice, the petitioner had demanded return of the advance amount of Rs.1/- crore. Since there had been a refusal to return back the amount, the petitioner had fallen back to Clause 18 of the agreement which provides for settlement of the disputes by arbitration.

5. Clause 18 of the agreement is as follows:-

“18. Any disputed arising between the parties pertaining to this MOU shall be resolved by discussions and deliberations and in the event of the same still being unable to be resolved, the same shall be referred to Arbitration.”



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6. The matter had been oscillating to and fro in this Court. The learned Single Judge had referred the issue to mediation. An agreement was reached during the mediation on 25.07.2024. The respondents had issued two cheques for Rs.55/- lakhs each both dated 06.09.2024 and both drawn on DBS Bank, India Private Ltd., Mumbai and bearing Nos. 431303 & 431304. Quite to the shock of the petitioner herein, when presented for payment, both the cheques were returned for the reasons 'insufficient funds'. It is clear that the respondents had deliberately issued the cheques with knowledge that there was no sufficient funds in their bank account.

7. The learned counsel for the petitioner stated that the petitioner would reserve their right to proceed further in manner known to law to enforce the dishonour of the two cheques. The petitioner has every right to approach a Court in that regard, but the disputes still remain.



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8. In view of the fact that the agreement envisages appointment of an Arbitrator, to examine the disputes, I would appoint Thiru.P.Ganesan, (Retd. District Judge), No.778, Judges Colony, Kakithapuram 4th Street, S.Kolathur, Kovilambakkam, Chennai – 600 117, Mobile No. 96000 45571 & 96000 45570, as Sole Arbitrator to enter into reference and endeavour to complete the process within a period of six months from the date of receipt of a copy of this order.

9. The learned Arbitrator may determine his fees in accordance with the schedule to the rules under Arbitration and Conciliation Act 1996 and follow appropriate procedure as envisaged by law.

10. This Arbitration Original Petition stands accordingly disposed of.

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04.11.2024

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