



Arb.O.P.(Comm.Div.) No.166 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

CORAM

DATED : 18.09.2024

THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

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India Yamaha Motor Private Limited,
70, First Floor, The Great Eastern Centre,
Nehru Place, New Delhi – 110 019
Represented by its Authorised Signatory
Ms.N.Nakshatra,
Also at
AKDR Tower, 5th Floor,
Door No.3/381, Rajiv Gandhi Salai (OMR),
Mettupakkam, Chennai – 600 097.

... Petitioner

-VS-

1.Khandel Wal Motors,
Represented by its Partner,
Vijay Kumar Khandelwal,
Having its Office at:
41 MM Road,
Rani Jhansi Marg,
Delhi – 110 055.

2.Vijay Kumar Khandelwal,
Partner,
Khandelwal Motors,
Available at:
41 MM Road,
Rani Jhansi Marg,
Delhi – 110 055.

3.Shivam Khandelwal,
Partner,
Khandelwal Motors,
Available at:



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41 MM Road,
Rani Jhansi Marg,
Delhi – 110 055.

4.Suresh Khandelwal,
Partner,
Khandelwal Motors,
Available at:
41 MM Road,
Rani Jhansi Marg,
Delhi – 110 055.

5.Himanshi Khandelwal,
Partner,
Khandelwal Motors,
Available at:
41 MM Road,
Rani Jhansi Marg,
Delhi – 110 055.

... Respondents

PRAYER: Arbitration Original Petition filed under Section 11(6) of the Arbitration and Conciliation Act, 1996 seeking for following prayer:-

(i) Appoint a sole Arbitrator to adjudicate all the disputes between the petitioner and the respondent based on the terms of Addendum Dealer Agreement dated 02.02.2021 under the Arbitration and Conciliation Act, 1996 as amended till date;

(ii) Such other orders or relief.

For Petitioner : Mr.Nareesh Nathan
for Ms. Inthu Karunakaran

For Respondents : No appearance

ORDER



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This Arbitration Original Petition has been filed under Section 11(6) of the Arbitration and Conciliation Act, 1996 (hereinafter called as 'the Act') to appoint an Arbitrator to adjudicate upon disputes/differences between the Petitioner and the Respondents and direct the Respondents to pay the costs of this proceeding.

2. Heard Mr.Nareesh Nathan, learned counsel for Ms. Inthu Karunakaran, learned counsel for the petitioner.

3. Originally, notice was directed to be issued to the respondents by order dated 26.04.2024. After notice, when the matter was listed on 13.06.2024, a counsel had undertaken to file Valalath on behalf of the respondents and sought time for filing counter. This Court had also recorded that settlement talks are going on between the parties.

4. Again, when the matter was listed on 25.07.2024, recording the settlement talks are still going on, O.P. was adjourned to 08.08.2024. Again when the matter was listed on 08.08.2024, the learned counsel who had appeared on behalf of the respondents still sought time to file Vakalath and had also claimed that settlement talks are still going on. Thereafter,



recording the same, the matter was directed to be listed on 16.08.2024.

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5. On 16.08.2024, at request of the learned counsel for the respondents, the O.P was directed to be listed on 22.07.2024. Again on 22.08.2024, the learned counsels appearing on either side submitted in unison that the issue is likely to be settled between themselves and therefore, this Court had directed the O.P. to be listed under the caption for reporting settlement on 18.09.2024.

6. When the matter was taken up today, there is no representation on the side of the respondents and the cause list also reflects that no one had entered appearance in behalf of the respondents and their names are printed in the cause list.

7. The present petition is a petition under Section 11(6) of the Act and the order of the Hon'ble Apex Court in the case of *SBI General Insurance Co. Ltd., Vs. Krish spinning* reported in 2024 SCC online SC 1754 had held that a petition under section 11(6) seeking appointment of an Arbitrator should not be kept unnecessarily pending. For better



appreciation, the relevant paragraph of the said judgment is extracted hereunder:-

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“124. Section 11 also envisages a time-bound and expeditious disposal of the application for appointment of arbitrator. One of the reasons for this is also the fact that unlike Section 8, once an application under Section 11 is filed, arbitration cannot commence until the arbitral tribunal is constituted by the referral court. This Court, on various occasions, has given directions to the High Courts for expeditious disposal of pending Section 11 applications. It has also directed the litigating parties to refrain from filing bulky pleadings in matters pertaining to Section 11. Seen thus, if the referral courts go into the details of issues pertaining to “accord and satisfaction” and the like, then it would become rather difficult to achieve the objective of expediency and simplification of pleadings.”

3. The learned counsel for the respondents as well as the petitioner had on earlier occasions indicated that there is a possibility of settlement. However, when the matter was taken up for hearing, the learned counsel for the petitioner submitted that the settlement talks are failed. The respondents also had not appeared in person or through their counsel, inspite of having notice of the present O.P.



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9. I have also perused the agreement upon which the present petition have been filed.

10. Clause 32.1 of the Agreement dated 24.08.23 provides a Clauses for Arbitration by a sole Arbitrator. Hence, this Court is inclined to appoint an Arbitrator.

11. In such view of the matter, this Court appoints **Mr.J.Aditya Reddy, Advocate, residing at 21/11, PS Sivasamy Salai, Mylapore, Chennai – 04,** as Sole Arbitrator to enter upon the dispute between the petitioner and the respondents.

12. The learned Sole Arbitrator is entitled to fix his fees as per the Schedule-IV to the Act. This Court further requests the learned Sole Arbitrator to endeavour to decide the dispute as expeditiously as possible, from the date of his entering into reference.

13. Accordingly, this Arbitration Original Petition is ordered.

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Index :Yes/No

Speaking Order/Non Speaking Order

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K.KUMARESH BABU, J.

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