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Arb.O.P.(Com.Div.) No.142 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 26.06.2024

Coram

The Hon'ble Mr.Justice Krishnan Ramasamy

Arb.O.P (Com.Div.) No.142 of 2024

Mr.B.Sundaramurthy
S/o Mr.A.Balasubramaniam.

...Petitioner

Vs.

1. i5 Housing and Properties LLP,
rep. By its Chairman P.Prasad,
Flant No.F1, RGM Homes,
No.52, 10th Street, Anbu Nagar,
Valasaravakkam, Chennai – 600 087.

2. Mr.S.Jim Raj Milton, Advocate
No.309/150, Linghi Street,
PNB Bank, Parrys, Chennai – 600 001.

...Respondents

Arbitration Original Petition filed under Section 14 (1)(a) read with Section 15 and 11(6) of the Arbitration and Conciliation Act praying to terminate the mandate of the second respondent Arbitrator and consequently, to appoint a Sole Arbitrator to adjudicate the disputes between the petitioner and first respondent.

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For Petitioner : Mr.Arun C. Mohan

For Respondent-1 : Mr.Simon

For Respondent-2 : No appearance

ORDER

This Arbitration Original Petition has been filed under Section 11(6) of the Arbitration and Conciliation Act, 1996 to appoint a Sole Arbitrator to terminate the mandate of the second respondent/Arbitrator and to appoint a Sole Arbitrator to adjudicate upon the disputes arisen between the petitioner and the respondent, in terms of the Term Sheet entered into between them dated 21.06.2018

2. When the Arbitration Original Petition is taken up, the learned counsel appearing for the petitioner would submit that the Arbitrator/second respondent was appointed unilaterally, at the discretion of the first respondent and the learned Arbitrator/second respondent has also erroneously noted that the petitioner herein has not opposed for such appointment and has directed both the petitioner and the first respondent to



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appear before him for contesting the arbitration proceedings, hence, the petitioner has filed the present Petition seeking for the aforesaid relief.

3. The learned counsel appearing for the first respondent fairly agreed for appointment of new Arbitrator in the place of second respondent/Arbitrator and to terminate the mandate of the second respondent/Arbitrator.

4. This Court taking into consideration of the submission made by the learned counsel for the petitioner and in view of the consent given by the learned counsel for first respondent for appointment of new Arbitrator, is inclined to appoint a new Arbitrator to adjudicate the disputes between the parties.

5. Accordingly, this Court feels it appropriate to issue the following direction:-

i) **The Hon'ble Mr.Justice R.Pongiappan, Former Judge, Madras High Court, at F-1, Dote Staff Quarters,**



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Gandhi Mandapam Road, Near Birla Planetorium, Guindy, Chennai – 600 025 (Mobile No.9443643366)2 is appointed as sole Arbitrator to enter upon reference and to adjudicate the *inter se* dispute between 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 Arbitrator is requested to conduct arbitration proceedings in accordance with the Madras High Court Arbitration Proceedings Rules, 2017.

iv) 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 first respondent, the petitioner shall bear the entire remuneration and other



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expenses and thereafter, the petitioner can recover the same directly from the first respondent and vice versa.

v) Since this Court has appointed an Arbitrator, it is open to the petitioner as well as the first respondent herein to seek other reliefs under the provisions of Arbitration and Conciliation Act 1996 before the learned Arbitrator.

vi) The mandate of the second respondent/Arbitrator is hereby terminated.

6. In the result, the Arbitration Original Petition is allowed on the aforesaid terms. No costs.

26.06.2024

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Index : Yes/No

Issue order copy on 09.07.2024.

Krishnan Ramasamy,J.,

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