



Arb.O.P (Com.Div.) No.156 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.06.2024

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

Arb.O.P (Com.Div.) No.156 of 2024

M.Radha,
Sole Proprietor,
M/s.Subam Audio Vision,
Having Office at No.6,
New Bus stand, Tiruvannamalai,
Tamil Nadu 606 601.

... Petitioner

Vs.

Bennet Coleman & Company Ltd.,
Rep by Chief Operating Officer,
Times Group,
8th Floor, Times Tower, Kamala Mills compound,
Senapati Bapat Marg, Lower Parel,
Mumbai 400 013.

... Respondent

Prayer:

Arbitration Original Petition filed under Section 11(6) of the Arbitration and Conciliation Act, 1996 to

a) appoint an arbitral Tribunal in accordance with the provisions of the Arbitration and Conciliation Act, 1996 to adjudicate upon the



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disputes/differences between the petitioner and the respondents under the content license agreement

b) direct the respondent to pay costs of this proceeding;

For Petitioner : Mr.K.S.Navin Balaji

For Respondent : No appearance

ORDER

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 the dispute between the petitioner and the respondent.

2. The learned counsel for the petitioner would submit that the petitioner, who is the owner of the audio tracks and sound tracks, had entered into License Agreement dated 05.11.2014 with the respondent. As per the said Agreement, the audio and sound tracks of the petitioner can be exploited by the respondent, for which the respondent has to pay 50% of the net income to the petitioner. However, the said amount was not paid by the respondent and as on date, the respondent is liable to pay a sum of Rs.6



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Crores. Therefore, the petitioner sent a notice dated 06.11.2023, under Section 21 of the Act, invoking Arbitration in terms of the Clause 14.3 of the License Agreement. However, the respondent has not come forward for the appointment of Arbitrator.

3. Further, he would submit that the present dispute, which is arising out of the License Agreement dated 05.11.2014, is arbitrable in terms of Clause 14.3 of the said Agreement and thus, this petition has been filed for appointment of Arbitrator.

4. In this petition, notice was served to the respondent and the name of the respondent is also printed in the cause list. However, there is no representation on behalf of the respondent, which shows that they are not interested in contesting this petition.

5. Heard the learned counsel for the petitioner and also perused the materials available on record.



6. In the present case, it appears that the dispute between the parties is arising out of the License Agreement dated 05.11.2014. Upon perusal of the said agreement, it is clear that the dispute among the parties shall be resolved by virtue of Arbitration as per the Clause 14.3 of the said Agreement, which reads as follows:

“14.3 Dispute and Jurisdiction:

14.3.1 Any Dispute or difference pertaining to this agreement shall be resolved through negotiations failing which the same shall be referred to arbitration; by (one) arbitrator mutually appointed by the parties hereto failing which, the arbitration shall be conducted by the sole arbitrator appointed by the court. The arbitration shall be all matters be governed by the Arbitration and Conciliation Act, 1996.

14.3.2 The place of Arbitration shall be at Mumbai/Chennai only. The language to be used in the arbitration proceedings shall be English. The award of the arbitration proceedings will be final and binding on both the parties to the agreement.

14.3.3 This Agreement is governed by and is to be construed in accordance with the laws of the Republic of India. It is agreed between the parties that only the appropriate Court in Mumbai/Chennai shall have the



exclusive jurisdiction to entertain and try any suit or matter in dispute between them relating to this agreement.”

7. Considering the submissions made by the learned counsel for the petitioner and the respondent and also in view of the fact that the dispute between the petitioner and the respondent squarely falls within the purview of clause 14.3 of the License Agreement dated 05.11.2014, this Court is inclined to appoint a sole Arbitrator.

8. Accordingly, this Court feels it appropriate to pass the following order:

i) Hon'ble Dr. Justice M.Jaichandran (Rtd.,) residing at Door No.422, South 2nd Main Road, Kapaleeswarar Nagar, Neelankarai, Chennai – 600 115, Contact No.9444390951, is appointed as sole arbitrator to enter upon reference and adjudicate the disputes *inter se* 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



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influenced by the observations made by this Court in the present order.

iii) 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 respondent, the petitioner shall bear the entire remuneration and other expenses and thereafter, the petitioner can recover the same directly from the respondent and vice versa.

9. This Arbitration Original Petition is ordered accordingly, leaving the parties to bear their own costs. Since this Court has appointed an Arbitrator, it is open to the petitioner as well as the respondent to seek other reliefs under the provisions of Arbitration and Conciliation Act 1996 before the Arbitrator.

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Speaking/Non-speaking order
Index : Yes / No
Neutral Citation: Yes / No
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KRISHNAN RAMASAMY.J.,
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