



WEB COPY



Arb.No.20 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.07.2024

CORAM:

THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN

Arb.No.20 of 2024

M/s.J.M.R.Builders,
Rep. by its Partner K.Jayachitra,
C1, Astalakshmi Homes,
Plot No.5282,
9th Street, Ram Nagar North,
Madipakkam,
Chennai – 600 0091.

.. Petitioner

Vs.

1. V.Kannan
2. M.Malliga
3. M.Satish
4. M.Padmapriya
5. K.Kasturi
6. K.Vanitha
7. K.Karthik
8. V.Vasudevan

.. Respondents

Arbitration Original Petition filed under Section 11(5) of the Arbitration and Conciliation Act, 1996 to pass an order appointing an arbitrator as per Clause 27 of the agreement dated 20.11.2020 entered between the petitioner and the respondents.



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For Petitioner : Mr.C.D.Sugumar

ORDER

This petition has been filed under Section 11(5) of the Arbitration and Conciliation Act, 1996 seeking appointment of an Arbitrator as envisaged under Clause 27 of the Agreement dated 20.11.2020 entered into between the petitioner and the respondents.

2. The petitioner could be called as 'Constructor'. They had entered into a Joint Venture Agreement dated 20.11.2020 with the respondents who are the title holders of the property at Choolaimedu in Kandappan Colony in Chennai measuring about 4834 Sq.ft. It has been stated that under the said agreement, 60% of the constructed area along with 60% of undivided share of the land shall be taken up by the respondents and the remaining 40% of the constructed area along with 40% of undivided share of land shall be taken by the petitioner herein. It had been stated that the petitioner had moved further by obtaining necessary permits and also paid statutory dues. The petitioner had also paid a sum of Rs.55,00,000/- to the respondents for vacating the tenants who were occupying the said property.



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This amount was also agreed to be adjusted by the respondents. The petitioner had further paid a sum of Rs.12,50,000/- towards statutory dues like Electricity connection, Metro Water and Sewerage Connection.

3. The details of the flats allotted to the land owners have been given in the petition and a perusal of the same shows that each of the respondents have been given specific constructed portions / apartments for their individual use and occupation.

4. But the respondents did not pay the said sum of Rs.55,00,000/- or the sum of Rs.12,50,000/- which has been spent by the petitioner on behalf of the respondents even prior to the commencement of the construction. If those amounts have not been paid by the petitioner, the respondents would never have been able to evict the tenants and permission would never have been obtained since there were dues to be paid before the statutory authorities. It was under those circumstances, since the respondents had not responded to the notice issued by the petitioners on 14.02.2024 but had issued another notice on 22.02.2024, the petitioner has filed this petition seeking appointment of an Arbitrator.



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5. Notice have been directed in this petition. It is seen that R1, R2, R3, R5 and R7 have been served and R6 and R8 have not been served for the reasons “Vacated” and “Door Locked” respectively. But the respondents being members of one family, must be aware about the filing of this particular petitioner. Let not the avoidance of receipt of notice by two of the respondents, R6 and R8, be an obstruction before this Court in proceeding to pass orders. Orders are passed irrespective of that particular fact. Even the respondents who have been served with notice have taken a conscious decision not to appear before the Court or to appoint any counsel.

6. A perusal of the agreement shows that Clause 27 specifically provides for appointment of an Arbitrator if disputes arise over the performance of any term under the agreement.

7. Taking all the factors into consideration and also Clause 27 of the Agreement entered into between the parties, I would allow the petition and appoint **Mr.Ponram Raja, Advocate (Enrollment No.MS.710/1988)**, having office at **Additional Law Chamber, No.438, High Court Campus, Chennai, Mobile No.9677245241**, as Arbitrator to enter reference, issue



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notice to the parties and proceed further to adjudicate the issue between the petitioner and the respondents. The remuneration to the Arbitrator may be fixed in accordance with the rules governing the Arbitration and Conciliation Act. But, initially let the petitioner pay a sum of Rs.50,000/- (Rupees Fifty Thousand Only) which is to be adjusted with further remuneration as determined by the learned Arbitrator. It is also made clear that the total remuneration should be paid in equal proportions by the petitioner on one hand and the respondents on the other hand. It is hoped that the Arbitrator would endeavour to pass an award within a period of six months from the date of entering reference.

8. Accordingly, this petition stands allowed. No costs.

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Index: Yes / No

Speaking order / Non speaking order

Neutral Citation : Yes / No

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C.V.KARTHIKEYAN, J.

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To:

Mr.Ponram Raja,
Advocate,
Additional Law Chamber,
No.438, High Court Campus,
Chennai.

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