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Arb.OP(Com.Div)No.174 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.07.2024

CORAM:

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

Arb.OP(Com.Div)No.174 of 2024

Mrs.Kalyani Murugesan

...Petitioner

Vs

M/s.Ananya Krishnaa Construction Private Limited,
Represented by its Managing Director,
Mr.Y.Gangadhar S/o.Mr.Subramaniam,
No.110, Ground & 1st Floor,
Lakshmanaswamy Salai, K.K.Nagar,
Chennai 600 083.

....Respondent

Prayer:- This Arbitration Original Petition has been filed under Section 11(6) of the Arbitration and Conciliation Act, 1996 to appoint a Sole Arbitrator to enter reference relating to disputes that has arisen between the parties herein and conduct arbitration proceedings.

For Petitioner : M/S.G.Vijayakumar

For Respondent : Mr.P.Neethi Kumar
for M/s.Waraon & Sai Ram



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ORDER

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This Arbitration Original Petition has been filed under Section 11(6) of the Arbitration and Conciliation Act, 1996 to appoint a Sole Arbitrator to enter reference relating to disputes that has arisen between the parties herein and conduct arbitration proceedings.

2. The learned counsel for the petitioner submitted that, the respondent/builder has approached the petitioner with a request to entrust the re-development work to the respondent. The petitioner and the respondent entered into a Joint Development Agreement (in short, JDA) dated July 2016, to demolish and reconstruct a new building. In terms of JDA, the petitioner had appointed the respondent as her power of attorney vide power of attorney deed, dated 24.10.2016. Pursuant to which, the petitioner has handed over all the original title deeds and documents to the respondent to enable them to initiate the process of approval and other formalities for the proposed demolition and reconstruction of new building. Since, the respondent/builder is not able to implement the project as per the terms of JDA, the petitioner requested the respondent for return



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of original title deeds. Though the petitioner sent a legal notice dated 20.08.2022 to the respondent, no consensus has been arrived from the respondent for the appointment of arbitrator. Therefore, finding no other option, the petitioner has filed the present O.P., for appointment of Sole Arbitrator to adjudicate the dispute arising out of the JDA dated July 2016. Relevant arbitration Clause 30 contained in the JDA, reads as follows:

“The parties herein agree to settle all disputes, misunderstandings and difference of opinion that might be arising between them whether as to the interpretation of the terms and conditions, contained herein and/or as to the determination of their respective rights, by way of referring such dispute/s to the sole arbitrator to be appointed by the Party of the Second Part with the consent of the Party of the First Part. The procedure as prescribed by the Indian Arbitration and Conciliation Act, 1996 as amended up to date shall be adopted by the sole arbitrator/umpire as the case may be. The law applicable shall be Indian law and the venue of Arbitration shall be at Chennai. The Courts in Chennai alone shall have sole and exclusive jurisdiction to try all consequential proceedings arising from the said award/arbitration proceedings”.

3. The learned counsel for the respondent would submit that, the respondent has no objection for the appointment of Arbitrator.



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4. Heard the learned counsel for the petitioner as well as the learned counsel for the respondent and perused the materials available on record.

5. In view of the above submissions made by the learned counsel on both sides, it appears that the present dispute has arisen out of JDA dated July 2016 and in terms of aforesaid JDA, the present dispute can be arbitrable. Therefore, this Court is inclined to appoint a sole Arbitrator to resolve the dispute between the petitioner and the respondent in terms of JDA, dated July 2016 .

6. Accordingly, this Court passes the following directions:-

- (a) **Mr.V.Raghupathi, Advocate, Madras High Court, possessing Mobile No.9941329171, having office at New No.346, Thambu Chetty Street, Chennai 600 001,** is appointed as a Sole Arbitrator to enter upon reference and adjudicate the disputes between the parties, arising out of the above said Joint Development Agreement.
- (b) The Arbitrator shall initiate arbitration proceedings and after issuing notice to the parties concerned and upon hearing them, pass an award, on merits and in accordance with law



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and uninfluenced by any of the observations made in this order, within a period of six months from the date of receipt of a copy of this order.

- (c) The Arbitrator shall be paid fees and other incidental charges, as per the Schedule IV of the Act and the same shall be borne by both 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 is at liberty to recover the same directly from the Respondent.

7. In the result, the Arbitration Original Petition is allowed on the aforesaid terms.

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Index: Yes/No

Web: Yes/No

Speaking/Non Speaking

Neutral Citation: Yes/No

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KRISHNAN RAMASAMY.J

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