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Arb.O.P (Com.Div.) No.180 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.06.2024

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

Arb.O.P (Com.Div.) No.180 of 2024

BIG LAUNDRY SERVICES PRIVATED LIMITED

Having its registered office at,

No.1/56, Pudupakkam

Off Kelambakkam to Vandalur Road,

Kancheepuram District-603 103

Represented herein by its

Authorised Representative

Mr.P.Kesavan,

S/o. Panchanathan,

Senior General Manager,

Residing at, No.1/188,

Dr.Abdulkalam Street, Karanai,

Kancheepuram District-603 103.

... Petitioner

..Vs..

Mr.A.Balachandran

...Respondent

Arbitration Original Petition filed under Section 11 of the Arbitration and Conciliation Act, 1996 to appoint a sole Arbitrator to adjudicate the disputes between the Petitioner and the Respondent arising out of the



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agreement dated 01.10.2018.

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For Petitioner : Mr.M.Durai Murugan
For Respondent : Mr.A.Balachandran
Party-in-Person

ORDER

This petition has been filed to appoint a sole Arbitrator to adjudicate the dispute between the Petitioner and the Respondent.

2. The learned counsel for the Petitioner would submit that the Petitioner Company is engaged in providing laundry services which include dry cleaning, washing and pressing of clothes. The Petitioner and the Respondent had entered into a Franchise agreement dated 01.10.2018 to carry on the business of the Petitioner at five (5) outlets at Chennai. As per the terms and conditions of the agreement, the Respondent has to pay a sum of Rs.25,00,000/- as refundable deposit and the said amount has also been paid by the Respondent. It is further submitted that as per the terms of the Franchise agreement the Petitioner made payments to the Respondent regularly till June 2019. Thereafter, in the year 2020, as the Petitioner suffered heavy loss due to Covid 19, Pandemic, the Petitioner was not able



to make payments to the Respondent and thereby failed to fulfil his obligations as per terms of the Franchise Agreement, for which without issuing notice as per Clause (7) of the said Agreement, the Respondent lodged a false police complaint against the Petitioner, pursuant to which, the Petitioner also attended the enquiry before the Korattur Police Station and expressed his willingness to settle the dispute through arbitration proceedings, but even then the Respondent in order to harass the Petitioner has indulged in criminal activities. Hence, a notice under Section 21 of the Arbitration and Conciliation Act, 1996 (hereinafter called as “the Act”) was sent to the Respondent on 14.10.2022 and despite receipt of the same, the Respondent has not chosen to reply the said notice. Hence, left with no other alternative, the present petition came to be filed.

3. Further, the learned counsel for the Petitioner would submit that though the Petitioner offered to settle a sum of Rs.25,00,000/- to the Respondent, he failed to accept the same. He further contended that the present dispute is arising out of the Franchise Agreement dated 01.10.2018



and the same is arbitrable in terms of Clause 14.2 of the said agreement, which reads as follows:

“Clause 14.2. In the event of any dispute or difference between the Parties hereto, whether arising out of or in the relation to this Agreement, then either Party shall give to the other Party a notice in writing of such dispute or difference and the same shall be settled at the first instance, by arbitration in Chennai, by a sole arbitrator appointed by mutual consent of the both the Parties herein within a period of 30 (thirty) days from notice of dispute. If the Parties fail to appoint a sole arbitrator within the given time, the arbitrator shall be appointed in accordance with the Arbitration and Conciliation Act, 1996, or any statutory modification or substitution thereof ("Arbitration Act"). The Parties agree that the rights and obligations of the Parties under this Agreement shall subsist and continue till the final determination of the dispute by the arbitrator or by a court of law as specified under Clause 14.1 hereinabove.”

By referring to the said clause, he would submit that the present dispute may be referred to Arbitration.



4. Per contra, the Respondent Party-in-Person would submit that actually the Franchise Agreement was entered in the year 2018 and even prior to the Covid-19 pandemic, i.e., from 2018-2019, the Petitioner - Company have not issued any franchise to the Respondent. He would further submit that a sum of Rs.68,00,000/- is due and payable by the Petitioner to the Respondent, however, he fairly accepted for the appointment of the arbitrator to resolve the dispute between the Petitioner and the Respondent and requested this Court that liberty may be granted to him to raise all the issues before the learned arbitrator, including counter claim.

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

6. In view of the above, it is clear that the present dispute is one arising out of the Franchise Agreement dated 01.10.2018 and the same is arbitrable under Clause 14.2 of the said Agreement. Hence, this Court is inclined to appoint a sole Arbitrator.



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

i) Mr.Thriyambak J.Kannan, Advocate, No.119/65, 1st Floor, Dr.Radhakrishnan Salai, Mylapore, Chennai - 600 004, Mobile No.98846 24563, 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 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.



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iv) The parties are directed to raise all the issues before the learned Arbitrator including the filing of counter claim by the Respondent. If any counter claim is filed by the Respondent, the learned arbitrator shall decide the same, without being influenced by any observations made by this Court.

8. With the above directions, this Arbitration Original Petition is allowed.

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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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