



Arb.O.P (Com.Div.) No.185 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.07.2024

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

Arb.O.P (Com.Div.) No.185 of 2024

S.Nithyakalyani

... Petitioner

Vs.

M.Mahesh Kumar

... Respondent

Prayer:

Arbitration Original Petition filed under Section 11(6) of the Arbitration and Conciliation Act, 1996 to appoint the Sole Arbitrator in terms of Clause 10 of the Partnership Deed dated 14.07.2021 for adjudication of the dispute between the petitioner and respondent.

For Petitioners : Mr.Premchandrar

For Respondent : Mr.Thirumaran

ORDER



Arb.O.P (Com.Div.) No.185 of 2024

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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 and the respondent had entered into partnership by virtue of Partnership Deed dated 14.07.2021. Subsequently, a dispute arose between the parties with regard to the handling of accounts of the business of the firm, which was not resolved between the parties amicably. Therefore, the petitioner sent a notice dated 28.01.2024, under Section 21 of the Act, invoking Arbitration in terms of the Clause 13 of the Partnership Deed.

3. Further, he would submit that the present dispute, which is arising out of the Partnership Deed dated 14.07.2021, is arbitrable in terms of Clause 13 of the said Deed and thus, this petition has been filed for appointment of Arbitrator.



4. In reply, the learned counsel for the respondent had also accepted the submission made by the learned counsel for the petitioners and requests this Court to appoint a sole Arbitrator.

5. Heard the learned counsel for the petitioners and the respondent 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 Partnership Deed dated 14.07.2021. Upon perusal of the said agreement, it is clear that the dispute among the parties arising out of the Partnership Deed and the same shall be resolved by virtue of Arbitration as per the Clause 13 of the said Deed, which reads as follows:

“13. ARBITRATION

13.1 Except as otherwise specifically provided in this Agreement, the following provisions apply if any dispute or difference arises between the Parties out of or relating to this Agreement ("Dispute").

13.2 A Dispute will be deemed to arise when one Party serves on the other Party a written notice stating the nature of the Dispute ("Notice of Dispute").



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Arb.O.P (Com.Div.) No.185 of 2024

13.3 The Parties agree that they will use all reasonable efforts to resolve between themselves, any Dispute through negotiations.

13.4 Any Dispute(s) arising under or in connection with this Agreement which the Parties are unable to settle through negotiations, after the period of thirty (30) business days from the service of Notice of Dispute, shall be finally settled by arbitration in accordance with the Arbitration and Conciliation Act, 1996 as amended and all proceedings shall be conducted in English and a daily transcript in English shall be prepared. The venue of arbitration shall be in Kallakurichi, Tamil Nadu.”

7. Considering the submissions made by the learned counsel for the petitioners and the respondent and also in view of the fact that the dispute between the petitioner and the respondent arose out of the Partnership Deed and the same can be resolved by virtue of Clause 13 of the Partnership Deed dated 14.07.2021, this Court is inclined to appoint a sole Arbitrator.

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



i) **Mr.R.Balachandran, Chartered Accountant, Flat 3B, IIIrd Floor, Block III, Bajaj Apartments, 4, Nandanam Extn. 1st Main Road, Nandanam, Chennai 600 035, Mobile Nos.94442 58090, 98843 50000,** 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.

9. This Arbitration Original Petition is ordered accordingly, leaving the parties to bear their own costs. Since this Court has appointed an



Arb.O.P (Com.Div.) No.185 of 2024

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.

04.07.2024

Speaking/Non-speaking order

Index : Yes / No

Neutral Citation: Yes / No

nsa

Note: Issue order copy on 10.07.2024



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Arb.O.P (Com.Div.) No.185 of 2024

KRISHNAN RAMASAMY.J.,
nsa

Arb.O.P (Com.Div.)No.185 of 2024

04.07.2024