



Arb.O.P (Com.Div.) No.212 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.07.2024

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

Arb.O.P (Com.Div.) No.212 of 2024

M/s.ACS Marine Services Private Limited,
Having its Registered Office at
502/B1, Nadupangu Paradise,
Dharapuram Road, Tirupur 641 608,
Represented by its Authorised Signatory,
Mr.R.Naveenkumar.

... Petitioner

Vs.

M/s.Poompuhar Shipping Corporation Limited,
Having its Registered Office at
No.692, (Old No.473),
Anna Salai, IV Floor,
Nandanam, Chennai 600 035,
Represented by its Director

... Respondent

Prayer:

Arbitration Original Petition filed under Section 11(5)&(6) of the Arbitration and Conciliation Act, 1996 to appoint the Arbitrators to resolve the disputes between the petitioner and the respondent in terms of Clause 16 of the Charter Party Agreement dated 06.01.2023..



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Arb.O.P (Com.Div.) No.212 of 2024

For Petitioners : Mr.P.Giridharan

For Respondent : Mr.Edwin Prabakar

ORDER

This Arbitration Original Petition has been filed under Section 11(5)&(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 Charter Party Agreement dated 06.01.2023 for the purpose of chartering of vessels under various categories for transportation of coal. Subsequently, a dispute arose between the parties with regard to the payment, since the invoices raised by the petitioner was not cleared by the respondent and hence, as per the Charter Party Agreement dated 06.01.2023, the total liability of the respondent is a sum of Rs.4,45,21,675/-. The said dispute was not resolved between the parties amicably. Therefore, the petitioner sent a notice dated 05.03.2024,

2/7



under Section 21 of the Act, invoking Arbitration in terms of the Clause 16 of the Charter Party Agreement. However, no consent was given by the respondent for Arbitration. Hence, this petition has been filed.

3. Further, he would submit that after filing of this petition, both the parties had nominated and agreed to appoint Mr.T.Mohan, learned Senior Advocate, as Arbitrator to adjudicate the dispute between them.

4. In reply, the learned counsel for the respondent had also accepted the submission made by the learned counsel for the petitioner and requests this Court to appoint Mr.T.Mohan, learned Senior Advocate as sole Arbitrator.

5. Heard the learned counsel for the petitioner 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 Charter Party Agreement dated 06.01.2023. Upon perusal



of the said agreement, it is clear that the dispute among the parties arising out of the Charter Party Agreement and the same shall be resolved by virtue of Arbitration as per the Clause 16 of the said Deed, which reads as follows:

“16. That should any dispute arise between owners and the Charterers, the matter in dispute shall be referred to three Arbitrators who shall be based at Chennai, one Arbitrator to be appointed by each of the parties hereto, and the third Arbitrator by the two so chosen, their decision or that or any two of them, shall be final, and for the purpose of enforcing any award, this Agreement may be made a rule of the Court. The Arbitrator shall be commercial men. The Venue of arbitration shall only be at Chennai.”

7. From reading the above clause, it appears that the parties have agreed for appointment of an Arbitral Tribunal comprising 3 Arbitrators. However, when this matter was taken up for hearing, both the parties had agreed to appoint Mr.T.Mohan, learned Senior Advocate, as Sole Arbitrator to adjudicate the dispute between them.



8. Therefore, 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 arose out of the Charter Party Agreement and the same can be resolved by virtue of Clause 16 of the Charter Party Agreement dated 06.01.2023, this Court is inclined to appoint Mr.T.Mohan, learned Senior Advocate, as Sole Arbitrator, as agreed by the parties.

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

i) **Mr.T.Mohan, Senior Advocate, Flat 3, Alacrity Samarpan Apartments, Door No.7, Urur Olcott Kuppam Road, Besant Nagar, Chennai 600 090, Mobile No.80561 00357**, 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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Arb.O.P (Com.Div.) No.212 of 2024

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.

10. 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.

18.07.2024

Speaking/Non-speaking order

Index : Yes / No

Neutral Citation: Yes / No

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Note: Issue order copy on 23.07.2024

6/7



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Arb.O.P (Com.Div.) No.212 of 2024

KRISHNAN RAMASAMY.J.,

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Arb.O.P (Com.Div.)No.212 of 2024

18.07.2024