



Arb.O.P (Com.Div.) No.237 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.07.2024

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

Arb.O.P (Com.Div.) No.237 of 2024

Sridevi Venugopal

... Petitioner

Vs.

Gomathi

... Respondent

Prayer:

Arbitration Original Petition filed under Section 11(6) of the Arbitration and Conciliation Act, 1996 to appoint an Arbitrator as under Clause 17 of the Partnership Deed dated 14.02.2014 to adjudicate upon the disputes between the petitioner and the respondent and to direct the respondent to pay the cost of the petition.

For Petitioner : Mr.Anish Gopi

For Respondent : Mr.Arfat Mohammed



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ORDER

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 parties commenced the Partnership Firm vide Partnership Deed dated 14.02.2014. Thereafter, since there was a dispute in the said Firm, the petitioner issued a legal notice dated 20.04.2024, calling upon the respondent to co-operate with the dissolution of the said firm. Pursuant to the said legal notice, the respondent sent a reply dated 29.04.2024, which was devoid of merits.

3. Further, he would submit that the present dispute is arising out of the Partnership Deed dated 14.02.2014 and the same is arbitrable under Clause 17 of the said Deed. Hence, the petitioner sent a notice dated 22.05.2024 under Section 21 of the Act invoking Arbitration. However,



since no consensus was arrived at between the parties, this petition has been filed. Therefore, he requests this Court appoint an Arbitrator to adjudicate the dispute between the parties.

4. In reply, the learned counsel for the respondent requested this Court to appoint a Chartered Accountant as Arbitrator since the dispute between the parties is with regard to the settlement of accounts.

5. Further, he would submit that once the decision is arrived at with regard to the settlement of accounts, the order of dissolution may be passed by the learned Arbitrator to be appointed by this Court and thereafter, subject to the consent of the parties, the learned Arbitrator to be appointed by this Court may continue with the arbitration proceedings.

6. Heard the learned counsel for the petitioner and the respondent and also perused the materials available on record.



WEB COURT

7. In the present case, it appears that the dispute between the parties is arising out of the Partnership Deed dated 14.02.2014. Upon perusal of the said Deed, 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 17 of the said Deed, which reads as follows:

“17. In the event of any dispute among the partners or their legal representatives, either in the conduct of the business or with regard to the terms of the partnership deed or on its dissolution, such dispute shall be referred to arbitration. The Arbitrator(s) shall be appointed by the partners hereto mutually and the award or decision of the arbitrator(s) shall be binding on all the parties hereto in accordance with the provision of the Arbitration and Conciliation Act, 1996.”

8. 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 Partnership Deed and the same can be resolved by virtue of Clause 17 of the Partnership Deed dated 14.02.2014, this Court is inclined to appoint a Chartered Accountant as a sole Arbitrator.



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9. 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.

iv) Initially, the learned Arbitrator is directed to settle the dispute pertaining to the settlement of accounts and thereafter, consider the aspect of dissolution of the Partnership Firm.

v) Further, it is made clear that once the dissolution order is passed for the purpose of winding up of the affairs of the Partnership Deed, at the consent of parties, the learned Arbitrator shall proceed with the arbitration proceedings, if the dispute is with regard to the right in *Personam*, since the Arbitrator cannot pass award in the matter where the right in *Rem* is involved.

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.

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Speaking/Non-speaking order

Index : Yes / No

Neutral Citation: Yes / No

nsa

Note: Issue order copy on 02.08.2024



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KRISHNAN RAMASAMY.J.,
nsa

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