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Arb.OP(Com.Div.)No.267 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 25.10.2024

Coram:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Arb.OP(Com.Div.) No.267 of 2024

CIPACA Healthcare Services Private Limited

Represented by its Managing Director,

Dr.Raja Amarnath,

D.No.2/2102/A, Madhakoil Street,

Mugalivakkam – Manapakkam Road,

Mugalivakkam, Chennai 600 125

.. Petitioner

/versus/

1.Dr.Vikram BalBhimrao Bhosale

2.Dr.Sujatha Vikram Bhosale

... Respondents

Prayer: Original Petition is filed under Section 11 of the Arbitration and Conciliation Act, 1996, seeking to constitute an Arbitral Tribunal to decide the dispute between the parties in accordance with the Clause 9 of the Agreement to Provide Comprehensive Medical Services dated 14.09.2021, Clause 5 of the Deed of Indemnity dated 14.09.2021 and Clause 4 of the Agreement for Business Development and Referrals dated 14.09.2021.

For Petitioner : Mr.A.Praveen Kumar

For Respondents : No appearance



ORDER

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This petition is filed under Section 11 of the Arbitration and Conciliation Act, 1996, seeking to constitute an Arbitral Tribunal to decide the dispute between the parties in accordance with the Clause 9 of the Agreement to Provide Comprehensive Medical Services dated 14.09.2021, Clause 5 of the Deed of Indemnity dated 14.09.2021 and Clause 4 of the Agreement for Business Development and Referrals dated 14.09.2021.

2. The petitioner states that the petitioner is engaged in the business of providing, investing and operating comprehensive medical services and the respondents herein run a hospital in the name and style of 'MATOSHRI HOSPITALS' situated at Ahmednagar in Maharashtra. While being so, an agreement for providing Comprehensive Medical Services, a Deed of Indemnity and an Agreement of Business Development and Referrals were entered into between the petitioner and respondents on 14.09.2021. Accordingly, the petitioner provided various medical services. However, since 26.11.2022, the respondents grossly erred in duties and responsibilities and huge sums of money became outstanding from the respondents. Therefore, the petitioner issued notice of termination dated 27.05.2023. However, the respondents stated that the petitioner failed to provide services and the



petitioner has to pay Rs.1,46,00,000/- towards financial loss. Therefore, the petitioner caused statutory notice dated 15.02.2024 nominating an arbitrator.

However, the respondents did not respond for the same. All the three agreements provide for an arbitration clause as follows:

“(i) This Agreement, and all disputes or claims arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by and construed in accordance with the laws of the India and any dispute will be settled only within Chennai Jurisdiction.

(ii) Any dispute or difference arising out of this Agreement shall be finally settled by arbitration. The provisions of the Indian Arbitration Act, 1940 shall apply in such proceedings.

(iii) Such dispute or difference shall be referred to the award of two Arbitrators, one Arbitrator to be nominated by FIRST PARTY and the other to be nominated by the SECOND PARTY or in case of the said Arbitrators not agreeing, then to the award of an Umpire to be appointed by the Arbitrators in writing before proceeding with the reference, and in case the Arbitrators cannot agree to the Umpire, he may be nominated by the Arbitration Council of India. The award of the Arbitrations, and in the event of them not agreeing or the Umpire appointed by them, the Arbitration Council of India shall be final and binding on the parties.

iv. The Arbitrator's decision shall be final and binding on both the parties. The resulting award shall be in lieu of any other remedy.”

3. Though notice was ordered on the respondents on 24.07.2024, neither the respondents engaged any counsel to appear on behalf of them before this Court nor the respondents have appeared before this Court in person today. Therefore, there is



Arb.OP(Com.Div.)No.267 of 2024

no impediment to proceed with the matter.

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4. On perusal of arbitration clause in all the three agreements, it is evident that the disputes are required to be resolved through arbitration. The petitioner has also duly invoked the arbitration clause. In view of the failure of the respondents to respond thereto, Arbitral Tribunal is required to be constituted in accordance with Section 11 of the Arbitration Act.

5. Therefore, this Court is inclined to appoint an arbitrator. Accordingly, this petition is allowed by appointing Mr.N.V.Pressanna, Advocate having address – New No.257, Old No.125, 2nd Floor, Angappanaikken Street, Chennai 600 001 (mobile: 96004 44045) as the Sole Arbitrator. The sole Arbitrator is directed to enter upon reference and adjudicate the dispute in accordance with law. It is open to the Sole Arbitrator to fix his fees and expenses in relation to the arbitral proceedings.

25.10.2024

Neutral citation: Yes/no
Index : Yes/No
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WEB COPY



Arb.OP(Com.Div.)No.267 of 2024



WEB COPY



Arb.OP(Com.Div.)No.267 of 2024

G.K.ILANTHIRAIYAN, J.

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Arb.OP(Com.Div.) No.267 of 2024

25.10.2024