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Arb.O.P.(Comm.Div.) No. 284 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.09.2024

CORAM

THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

Arb.O.P.(Comm.Div.) No. 284 of 2024

M/s.Coopers Concept Foundation Pvt. Ltd.,

Represented by its Chairman,

P.V.Sathyanarayanan

Office at No.38, Rameswaram Road,

T.Nagar, Chennai – 600 017.

Formerly having Office at

“Ziyad Court”

No.241, Rangarajapuram Main Road,

Kodambakkam, Chennai – 600 024.

... Petitioner

-VS-

1.K.Sudharsanam

2.K.Elangovan

3.K.Ganesan

4.K.Mohan

5.K.Murali

6.K.Saravanan

... Respondent

PRAYER: Arbitration Original Petition filed under Section 11(6) of the Arbitration and Conciliation Act, 1996, to appoint an arbitrator to proceed with and to adjudicate the reference to direct the respondents to submit to the joint venture commitment as per the agreement dated 18.03.2007 coupled with supplemental agreement dated 18.03.2007 and that of addendum dated 21.06.2021 by specifically enforcing the terms and conditions of the above said agreement.



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For Petitioner : Mr.V.Manohar

For RR 1 to 5 : Mr.P.Vasanth

ORDER

Heard Mr.V.Manohar, learned counsel for the petitioner and Mr.P.Vasanth, learned counsel appearing on behalf of the respondents 1 to 5.

2. The learned counsel for the petitioner would submit that a Joint venture Agreement had been entered upon by the respondent on 18.03.2007. Since, there was a clout on the title, a Supplemental Agreement had been entered and the said Supplemental Agreement also contains a Clause for arbitration. The last of the Supplemental Agreement was entered into between the parties on 21.06.2021.

3. He would further submit that the petitioner had issued a notice of arbitration on 30.12.2023 and the said notice did not evoke any response and hence, he had approached this Court for appointment of an Arbitrator.

4. The learned counsel appearing on behalf of the respondent



would contend that the Agreement dated 18.03.2007 is absolutely time barred and the addendum dated 21.06.2021 had not been signed by at least two of the parties to the agreement and therefore, the same could not be arbitrated. He would further submit that since, the two of the signatories did not accept to the addendum, what can be arbitrated, would only be the disputes arising out of the original Joint Venture Agreement of the year 2007, which according to him is also barred by limitation. Hence, he would seek this Court to dismiss the O.P.

5. I have considered the submissions made by the learned counsels appearing for their respective parties and perused the materials available on record before this Court.

6. Admittedly, the Joint Venture Agreement had been entered into between the parties in the year 2007 and the addendum seems to have been made. Even though, it is the case of the respondent counsel that only four of them had signed and two of them had refused to accept the terms of the addendum, it is to be arbitrated as to whether the subsequent addendum which had been signed by four of the respondents would bind the remaining two respondents, in view of the Joint Venture Development Agreement that had been entered between the parties.



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Hence, I am unable to sustain the arguments made by the learned counsel appearing for the respondents to reject the O.P. However, liberty is granted to the parties to raise all their contentions before the learned Arbitrator.

7. In such view of the matter, this Court is inclined to appoint **Hon'ble Mr.Justice N.Kirubakaran, *Former Judge of this Court, residing at No.36, 2nd Cross Street, Rayala Nagar, Ramapuram, Chennai – 600 089, as a*** Sole Arbitrator to enter upon the dispute between the petitioner and the respondents.

8. The learned Sole Arbitrator is entitled to fix his fees as per the Schedule-IV to the Act. This Court further requests the learned Sole Arbitrator to endeavour to decide the dispute as expeditiously as possible.

9. In fine, this Arbitration Original Petition is ordered as prayed for.

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Index :Yes/No



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Speaking Order/ Non-Speaking Order
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K.KUMARESH BABU, J.

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