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Arb.OP.(comdiv) No.276 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.10.2024

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

Arb.O.P.(Comm.Div.) No.276 of 2024

Tata Capital Limited,
Rep. By its Power Agent Mr.Selvabalaji Rajendran,
Kodambakkam, Chennai – 24. .. Petitioner

-VS-

1.M/s.Arunachala & Co.,
Nea Southgate Bus Stop,
Madurai – 625 001.

2.Mr.A.D.Arunjunai Duraipandian,
3.Mrs.A.Naveena

4.M/s.Hotel Arunachala,
South Veli Street,
Madurai – 625 001. .. Respondents

Petition under Section 11 of the Arbitration and Conciliation Act, 1996, has been filed seeking to appoint a sole arbitrator to adjudicate the dispute between the petitioner and the respondents under the agreement for term loan dated 31.03.2023.

For Petitioner : Mr.Gaurav Chatterjee

For Respondents : No Appearance



Arb.OP.(comdiv) No.276 of 2024

ORDER

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2. After the notice sent through Court as well as privately to the respondents returned with an endorsement “left with intimation”, paper publication was effected. But, even today, no one has represented on behalf of the respondents.

3. According to the petitioner, the respondents had approached the petitioner to avail financial assistance and accordingly, a term loan agreement dated 06.09.2022 was entered into between the petitioner and the respondents.

4. There seems to be a dispute between the petitioner and the respondents arising out of the term loan agreement dated 06.09.2022. There is an arbitration clause available in the term loan agreement dated 06.09.2022, which is extracted hereunder:-

“If any dispute, difference or claim arises between any of the obligors and the lender in connection with the facility or as to the



Arb.OP.(comdiv) No.276 of 2024

interpretation, validity, implementation or effect of the facility documents or as to the rights and liabilities of the parties under these T&Cs or alleged breach of the facility documents or anything done or omitted to be done pursuant to the facility documents, the same shall be settled by arbitration by a sole arbitration to be appointed as per the procedure below and to be held at such place as agreed by the parties in Serial No.18 of Annexure 1 hereto of the Agreement. The party invoking the arbitration (claimant) shall address a notice to the other party (respondent) suggesting the names of not more than three arbitrators, all of whom shall be either retired judges of the District Court, High Court or the Supreme Court or a lawyer having minimum 10 years' relevant experience.”

5. The petitioner had invoked the arbitration in accordance with the arbitration clause found in the agreement dated 06.09.2022 by sending a notice to the respondents on 24.04.2024. Since there is a valid arbitral agreement between the parties and that there has been no consensus between the parties for appointment of an arbitrator, this Court will have to necessarily appoint an arbitrator. Accordingly, this petition



Arb.OP.(comdiv) No.276 of 2024

is allowed with the following directions:-

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(a) This Court hereby appoints the Hon'ble Mr.Justice M.Vijayaraghavan, former Judge of the Madras High Court, having office at No.2/15, Dr.T.V.Naidu Road, Flat No.2-B, Abirami Foliage, Chetpet, Chennai, as the sole arbitrator to adjudicate the dispute between the petitioner and the respondents arising out of the term loan agreement dated 06.09.2022.

(b) The Sole Arbitrator appointed by this Court shall be paid remuneration as per the Fourth Schedule of the Arbitration and Conciliation Act, 1996.

(c) The Arbitrator shall adhere to the provisions of Arbitration and Conciliation Act, 1996.

(d) The Arbitrator shall also pass the arbitral award within the stipulated period as prescribed under the Arbitration and Conciliation Act, 1996.

(e) Both the parties shall share equally the fees payable to the Arbitrator.

23.10.2024

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Arb.OP.(comdiv) No.276 of 2024

G.K.ILANTHIRAIYAN, J.

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Arb.O.P.(Comm.Div.) No.276 of 2024

23.10.2024