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Arb.O.P.(Comm.Div.) No. 275 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.09.2024

CORAM

THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

**Arb.O.P.(Comm.Div.) No. 275 of 2024**

1.P.Sudha

2.R.Laxmichitra

3.Alagu Ranganayagi

... Petitioners

-VS-

A.Anitha

... Respondent

**PRAYER:** Arbitration Original Petition filed under Section 11(6) of the Arbitration and Conciliation Act, 1996 seeking for following reliefs:-

*(a) To appoint the arbitrator in terms of Section 11 of the Arbitration and Conciliation Act, 1996, to resolve the disputes that have arisen between the petitioner and the respondents as per clause 19 of the partnership Agreement dated 20.03.2019;*

*(b)The respondents be directed to pay the cost of the petition and*

*(c) Pass such other orders as this Court may deem fit and proper in the circumstances of the case.*

For Petitioners : Mr.B.Manoharan



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For Respondent : Mr.Abdul Hameed  
Senior Counsel  
for Mr.Lamech Indian

**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 in respect of the disputes that have arisen between the petitioners and the respondent as per clause 19 of the partnership Agreement dated 20.03.2019

2. Heard Mr.B.Manoharan, learned counsel for the petitioners and Mr.Abdul Hameed, learned Senior Counsel for Mr.Lamech Indian, learned counsel appearing on behalf of the respondent.

3. A preliminary objection had been raised by the learned Senior Counsel appearing on behalf of the respondent by contending that the original partnership deed dated 20.03.2019 had been replaced by a fresh partnership deed dated 22.05.2020 by which a partnership had been reconstituted and two persons were inducted and the shares have also been modified. Therefore, he would submit that without impleading the newly impleaded partners, the petition is not maintainable. Therefore, he would submit that the petition ought to be dismissed.



4. On the other hand, the learned counsel for the petitioners would submit that the newly inducted partners had resigned from the partnership firm and in support of his claim he had also filed the Income Tax Returns which had been purportedly verified by the respondent indicating that newly inducted partners have resigned.

5. Learned Senior Counsel appearing on behalf of the respondent would again contest the said claim of the learned counsel for the petitioners by contending that no such Returns were filed by the respondent and it has been stage managed by the petitioners.

6. I have perused the petition and also the materials available on record and considered the submissions made by the learned counsels appearing on either side.

7. It is not disputed that a Partnership Agreement had been entered into on 20.03.2019 between the petitioners and the respondent. Even though, it has not been brought on record before this Court by the petitioners that there is reconstitution, even admitting that there was a reconstitution of the partnership firm, the original Partnership continued to be in existence. What was done on



22.05.2020 was a reconstitution of a partnership deed.

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8. Eventhough there is a dispute as regards to the continuation of the newly inducted partners based upon reconstitution, this Court is of the opinion that this Court, at this stage cannot look into the disputes and decide the issue in view of the judgment of the Hon'ble Apex Court in ***In-Re interplay between the agreement under Arbitration and Conciliation Act, 1996 and the Stamp Act*** reported in **2024 (6) SCC 1**. All these issues can be raised before the Arbitrator by the respective parties and it is for the Arbitrator to decide the issue. Admittedly, the parties before me are the partners who initially brought into the existence of the partnership firm which was reconstituted on 22.05.2020. The reconstitution of the partnership deed is only a supplementation of the original partnership which came into existence on 20.03.2019.

10. It is to be noted that the original partnership deed also provided for an Arbitration and the reconstituted partnership deed (supplementation deed) also contains the clause of Arbitration. When that being so, I do not find any impediment in appointing an Arbitrator.



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11. In such view of the matter, this Court appoints

**Mr.J.Krishnamoorthy, Former District Judge, residing at B-2/D, Nutechkrishna, New D.No.37 (old No.15), Soundararajan Street, T.Nagar, Chennai – 600 017** as sole Arbitrator to enter upon the dispute between the petitioners and the respondent.

12. 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.

13. Accordingly, this Arbitration Original Petition is ordered.

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Index :Yes/No  
Speaking Order/ Non-Speaking Order  
Gba



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**K.KUMARESH BABU, J.**

*Gba*

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