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Arb.OP(Com.Div.)No.282 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 28.10.2024

Coram:

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

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Chennai Inverventional Pulmolology and Critical Care Associates(P) Ltd
Rep by Manager – Accounts,
Sheshachalpathi Bester,
D.No.2/2102/A, Madha Koil Street,
Mugalivakkam – Manapakkam Road,
Mugalivakkam, Chennai 600 125

.. Petitioner

/versus/

Sri Lakshminarayana Institute of Medical Sciences Hospital,
Rep. By its Director, Prof.S.Rajasekaran,
Osudu Agaram Village, Villianur Commune,
Kudapakkam Post, Puducherry 605 502

... Respondent

Prayer: Original Petition is filed under Section 11 of the Arbitration and Conciliation Act, 1996, seeking to appoint an independent sole arbitrator in terms of Clause 4(1) of the Agreement dated 11.09.2019 for the purposes of adjudicating upon the disputes that have arisen between the petitioner and the respondent thereunder.

For Petitioner : Mr.P.Mano Rajan

For Respondent : No appearance



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ORDER

This petition is filed under Section 11 of the Arbitration and Conciliation Act, 1996, seeking to appoint an independent sole arbitrator in terms of Clause 4(1) of the Agreement dated 11.09.2019 for the purposes of adjudicating upon the disputes that have arisen between the petitioner and the respondent thereunder.

2. The petitioner states that the respondent approached the petitioner for providing Manpower and Clinical services and agreed to pay monthly package and service charges to the petitioner, pursuant to which they entered into agreement dated 11.09.2019. The petitioner raised various invoices and though the respondent paid a part of the amount, balance amount of Rs.62,55,000/- was not paid, for which the petitioner sent a legal notice on 06.05.2023. However, the respondent did not reply. Thereafter, the respondent made some payment and Rs.40,55,000/- remained due. Therefore, invoking arbitration, the petitioner sent legal notice, which was also delivered to the respondent on 18.03.2024. The relevant clause in the agreement dated 11.09.2019 is set out below:-

Clause 4(I) - Law and Arbitration:

Any dispute, difference or question, which may arise at any time hereafter, between the parties hereto, touching the true construction and meaning of the terms and conditions of this Agreement, as also in respect of the rights and liabilities of the



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parties hereto, shall be referred to the sole arbitration of a single arbitrator, as may be mutually agreed upon by and between the parties hereto, in accordance with The Indian Arbitration And Conciliation Act, 1996 and/or modification and/or amendments there to. The decision of the sole Arbitrator shall be final and binding on the parties to this Agreement. The Arbitration proceedings shall be held in Chennai in English Language.

3. It is seen that notice was served on the respondent on 26.07.2024. However, neither the respondent engaged any counsel to appear on behalf of him before this Court nor the respondent appeared before this Court in person today.

4. On perusal of clause 4(I) of the agreement dated 11.09.2019, 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 respondent to respond thereto, the 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 M/s.V.Valarmathi, Advocate (E.No.2333 of 2010 having address – Door No.13, Gandhi Street, West Mambalam, Chennai 600



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033 (mobile: 95432 11462) 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.

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Neutral citation: Yes/no
Index : Yes/No
Speaking/Non Speaking
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G.K.ILANTHIRAIYAN, J.

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