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Arb.OP(Com.Div.)No.280 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.280 of 2024

Arjun Karthik Bala
Represented by his power of attorney agent
Balakrishnan Rajaram

.. Petitioner

/versus/

1.M/s.Ideal Habitats (Cbe) Pvt.Ltd.,
Represented by its Managing Director,
85, Arun Nagar,
Maruthamalai Main Road,
Vadavalli, Coimbatore 641 041
2.Naushad Hydrose

... Respondents

Prayer: Original Petition is filed under Section 11 of the Arbitration and Conciliation Act, 1996, seeking to constitute an Arbitral Tribunal by appointing an Arbitrator as per Clause 24 of the Construction Agreement dated 18.08.2021, wherein the petitioner and respondents had agreed to refer the dispute to Arbitration.

For Petitioner : Mr.Akshai Sajin Kumar

For Respondents : No appearance

ORDER

This petition is filed under Section 11 of the Arbitration and Conciliation Act, 1996, seeking to constitute an Arbitral Tribunal by appointing an Arbitrator as per



Clause 24 of the Construction Agreement dated 18.08.2021, wherein the petitioner and respondents had agreed to refer the dispute to Arbitration.

2. The petitioner states that the first respondent company is indulged in the business of construction and real estate. The petitioner entered into a construction agreement with the respondents on 18.08.2021 for construction of 2000 sq.ft. residential villa at site No.10, 'Ideal Homes Phase-II' for a total consideration of Rs.90,00,000/-. As per the agreement, the villa was supposed to be constructed at a living condition on or before 31.07.2023 and agreed to pay the petitioner a sum of Rs.2,500/- per day in case of any further delay. However, they failed to complete the construction. Therefore, the petitioner issued legal notice on 12.02.2024 and intimated that arbitration proceedings as per Clause 24 of the Construction Agreement dated 18.08.2021 will be initiated, which is extracted hereunder:

“24. Any dispute *inter se* with respect to the terms of this agreement shall be resolved through an Arbitrator at Coimbatore as per the Arbitration and Conciliation Act.

3. Notice was ordered on the respondents on 26.07.2024. However, the respondents have not engaged any counsel to appear before this Court or the respondents did not appear before this Court in person. Therefore, there is no impediment to proceed with the matter.



4. On perusal of Clause 24 of the Construction Agreement dated 18.08.2021, 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, or took consent to the nominee proposed by the petitioner, 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 from Coimbatore. Accordingly, this original petition is allowed by appointing Mr.S.Thangaraj, Advocate (Ms No.597 of 2014) having office address – Door No.4, Lakshmi Nivas, Cape Neem Lands, V.K.Road, Peelamedu, Coimbatore 641 004(mobile: 98945 77729) 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
Speaking/Non Speaking
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G.K.ILANTHIRAIYAN, J.

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