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Arb.O.P. (Com.Div.) No.534 of 2023

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

DATED : 31.01.2024

CORAM

**THE HONOURABLE MR.JUSTICE C.SARAVANAN**

Arb.O.P.(Com.Div.)No.534 of 2023

1.Mr.R.C.Kumaravelu

2.Kalpana

.. Petitioners

**Vs.**

1.M/s.ESHA HOME DEVELOPERS

A Partnership Firm,  
Having its office at No.24, Sarojini Nagar,  
3<sup>rd</sup> Street, Kolathur,  
Chennai – 600 009.  
Rep by its Partner.

2.Mrs.R.Manjumadevi,

Partner of M/s.ESHA HOME DEVELOPERS,  
D/o.Mr.Kulasekar,  
No.24, Sarojini Nagar,  
3<sup>rd</sup> Street, Kolathur,  
Chennai – 600 009.

.. Respondents

**Prayer:** Original Petition is filed under Section 11(6) of the Arbitration and Conciliation Act, 1996, praying to appoint arbitrator as this Court may deem fit as the sole arbitrator to decide the disputes between petitioners and the respondents arisen under the Partnership Deed dated 12.11.2018 between the petitioners and the respondents and to award costs of the present proceedings in favour of the petitioners.



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For Petitioners : Mr.N.Umapathi

For Respondents : No Appearance

### **ORDER**

This petition has been filed under Section 11(6) of the Arbitration and Conciliation Act, 1996 to appoint arbitrator as this Court may deem fit as the sole arbitrator to decide the disputes between petitioners and the respondents arisen under the Partnership Deed dated 12.11.2018 between the petitioners and the respondents and to award costs of the present proceedings in favour of the petitioners.

2. The petitioners and the second respondent are the partners of the first respondent firm. It appears that the dispute has arisen between them under the Partnership Deed. The Partnership Deed dated 12.11.2018 contemplates a mechanism for resolving the dispute through Arbitration in terms of Clause 20. Clause 20 of the Partnership Deed dated 12.11.2018 reads as under:-

“20.That in the case of any dispute arising out of this DEED between the parties of this deed, it shall be decided by Arbitration as provided for under the Indian Arbitration Act.”



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3. It appears that the petitioners had earlier approached a City Civil Court in O.S.No.1363 of 2022 which was contested by the respondents by filing an application under Section 8 of the Arbitration and Conciliation Act, 1996 in I.A.No.2 of 2022. The Court also allowed the aforesaid Application by its order dated 11.10.2022, thereby, as directed the parties to work out the remedy under the Arbitration Clause in Partnership Deed dated 12.11.2018. The petitioners have also issued a notice under Section 21 of the Arbitration and Conciliation Act, 1996 and the respondents have also responded by a communication dated 31.08.2023 through the Counsel, wherein, the respondents have conceded and they are willing to appoint an Arbitrator.

4. Considering the same, Court is inclined to pass the following order:-

(i) **M/s.Sudharshana Sunder, Advocate, (Mobile No.:9444232590)** having office at **No.31, New Additional Law Chambers, High Court Buildings, Chennai – 600 104**, is appointed as an Arbitrator to enter upon reference and adjudicate / resolve the *inter se* dispute between the parties.



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(ii) The learned Arbitrator appointed herein, shall after issuing notice to the parties and upon hearing them, endeavour to complete the arbitral proceedings and pass an award strictly in accordance with the provisions of the Arbitration and Conciliation Act, 1996, as expeditiously as possible, preferably within a period of twelve months after the date of completion of pleadings under Sub-Section 4 to Section 23 as is contemplated in Section 29-A of the Arbitration and Conciliation Act, 1996, without getting influenced by any of the observations made by this Court in this order.

(iii) The learned Arbitrator appointed herein shall be paid fees and other incidental charges as may be fixed with the consent of parties or in accordance with the provisions of the Arbitration and Conciliation Act, 1996, and the same shall be borne by the parties equally. In case, the respondents remain *ex parte*, the petitioners shall pay the entire fee and other incidental charges to the Arbitrator and later recover the same from the respondents.

5. The parties are at liberty to workout the venue for Arbitration at



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6. The Original Petition is allowed with the above observations, leaving the parties to bear their own costs.

7. Since the Court has appointed an Arbitrator, it is open to the petitioners as well as the respondents to seek other reliefs under Section 17 of the Arbitration and Conciliation Act, 1996, before the learned Arbitrator.

**31.01.2024**

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Index : Yes / No  
Internet : Yes / No  
Neutral Citation : Yes / No



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**C.SARAVANAN, J.**

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