



Arb.OP(Com.Div.)No.326 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 18.10.2024

Coram:

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

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1. Monika Road Carriers,
Rep. by its Partner Shyam Sunder Singh
No.18/59, Lavanya Theatre Backside,
Near Amman Matchbox Company,
Mecheri, Salem – 636 453.

2. Shyam Sunder Singh

.. Petitioners

/versus/

Samesh Kumar

... Respondent

Prayer: Original Petition is filed under Section 11 of the Arbitration and Conciliation Act, 1996, seeking to appoint an Arbitral Tribunal to decide the disputes between the petitioners and the respondent arising out of the partnership deed dated 01.04.2017.

For Petitioner : Mr.C.Jagadesh

For Respondent : --

ORDER



This petition is filed under Section 11 [5] of the Arbitration and Conciliation Act, 1996, seeking appointment of an Arbitral Tribunal to decide the disputes between the petitioners and the respondent arising out of the partnership deed dated 01.04.2017.

2. The petitioners state that they entered into a partnership deed dated 01.04.2017 to carry on a business in the name and style of 'Monika Road Carriers' and the firm is involved in the business of plying lorry, lorry booking and acting as a commission agent for the purpose of transporting materials throughout India. The petitioners cite the arbitration clause in the partnership deed dated 01.04.2017 and submit that the dispute which has arisen between the petitioners and the respondent herein is liable to be referred to arbitration in terms thereof. The relevant clause in the partnership deed is set out below:-

“16. In case of any difference of opinion in respect of terms of the deed or the affairs of the business, the same shall be referred to the arbitrator and the decision of the arbitrator shall be final and binding to all parties. ”

3. The petitioners also point out that a letter dated 07.05.2024 was sent to the respondent, for which the respondent has not expressed his consent and willingness for appointment of an arbitrator.



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4. Notice was ordered on the respondent on 19.08.2024 and though Mr.M.Arvind Kumar, undertook to file Vakalat on behalf of the respondent on 25.09.2024, no vakalat has been filed on behalf of the respondent.

5. On perusal of clause 16 of the partnership deed dated 01.04.2017, it is evident that the disputes are required to be resolved through arbitration. The petitioners have 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.

6. Accordingly, the following Order is passed :

i) Mr.P.J.Rishikesh, Advocate, No.10-A, Harrington Road, 14th Avenue, Chetpet, Chennai – 600 031 [Phone : 044 28362655], is appointed as sole arbitrator to enter upon reference and adjudicate the disputes *inter se* the parties

ii) The learned Arbitrator appointed herein, shall after issuing notice to the parties and upon hearing them, pass an award as expeditiously as possible, preferably within a period of six months from the date of receipt of the Order. The learned Arbitrator is also directed



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to decide the matter without influenced by the observations made by this Court in the present order.

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iii) The learned Sole Arbitrator appointed herein shall be paid fees and other incidental charges, as per Schedule IV of the Act and the same shall be borne by the parties equally. In the event of non-appearance of the respondent, the petitioner shall bear the entire remuneration and other expenses and thereafter, the petitioner can recover the same directly from the respondent and vice versa.

7. With the above directions, this Arbitration Original Petition is Ordered.

18.10.2024

Neutral citation: Yes/no
Index : Yes/No
Speaking/Non Speaking

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G.K.ILANTHIRAIYAN, J.

VRC

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