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Arb.O.P(Com.Div.) No.548 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.02.2024

CORAM :

THE HONOURABLE MR.JUSTICE C.SARAVANAN

Arb.O.P.(Com.Div.) No.548 of 2023

Mr.R.G.Babu

... Petitioner

Vs.

Chennai Network Infrastructure Limited (CNIL),
Now its merged with the GTL Infrastructure Limited,
Registered Office at Global Vision,
Electronic Sadan-II MIDC,
TTC Industrial Area, Mahape,
Navi Mumbai – 400 710, Maharashtra, India.

And also

Corporate Office at 412 Janmabhoomi Chambers,
29, Walchand Hirachand Marg,
Ballard Estate, Mumbai – 400 001, India.

And also

Chennai Network Infrastructure Limited (CNIL),
Represented by its Authorised Signatory-cum-Circle Head,
232, City Center, III Floor,
Purasaiwakkam, Chennai – 600 010.

... Respondent

Prayer: Original Petition is filed under Section 11(6A) of the Arbitration
and Conciliation Act, 1996, praying for appointment of an Arbitrator to



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adjudicate the dispute between the petitioner and the respondent in terms of the Lease Agreement dated 27.06.2016 and to direct the respondent to pay the cost.

For Petitioner : Ms.T.Anupriya
for Mr.N.Balaji

For Respondent : No Appearance

ORDER

There is no representation on behalf of the respondent.

2. The respondent has filed a Counter Affidavit though the Vakalat by the learned counsel for the respondent has been returned by the Registry.

3. This Original Petition has been filed under Section 11(6A) of the Arbitration and Conciliation Act, 1996, praying for appointment of an Arbitrator.



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4. The dispute has arisen under a Lease Agreement dated 27.06.2016 between the petitioner and the respondent.

5. The Lease Agreement contemplates a clause for resolving the dispute through arbitration under the provisions of the Arbitration and Conciliation Act, 1996. In the Lease Agreement, the seat of arbitration has also specified as Chennai.

6. Clause 21 of the Lease Agreement reads as under:-

“21. Any dispute or claim between the parties hereto arising out of or relating to this agreement, or its implementations and/or its effect, or the breach, termination, due to efflux of time or otherwise, or invalidity thereof, either during its subsistence or after its termination, shall be referred to the arbitration of a sole arbitrator in accordance with the provisions of Arbitrations and Reconciliation Act, 1996. The Arbitration shall be held at Chennai. Arbitrator will be appointed/engaged by both the parties written consent.”

7. The petitioner has also issued a Legal Notice to the respondent on 30.05.2023 under Section 21 of the Arbitration and Conciliation Act, 1996 for appointment of an Arbitrator by nominating a retired District Judge as



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a Sole Arbitrator. However, the aforesaid Legal Notice would not evoke any positive response from the respondent.

8. Thus, the petitioner is before this Court for appointment of an Arbitrator.

9. Having considered the arguments advanced by the learned counsel for the petitioner and the counter affidavit that was filed on behalf of the respondent, Court is of the view that the objection regarding under-stamping of the aforesaid Lease Agreement dated 27.06.2016 is no longer available to the respondent in the light of the recent decision of the Hon'ble Supreme Court in **N.N.Global Mercantile Private Limited Vs. Indo Unique Flame Limited and others**, 2023 SCC Online SC 495/(2023) 7 SCC 1.

10. Considering the same, **Mr.Sharath Chandran, Advocate, (Enrollment No.MS/1400/2010), residing at Gokulam, No.3, Gopala Menon Street, Vepery, Chennai - 600 007, (Mobile No.98844 45442)**, is appointed as a Sole Arbitrator to enter upon reference to



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resolve/adjudicate the *inter se* dispute between the petitioner and the respondent in accordance with the provisions of the Arbitration and Conciliation Act, 1996.

11. 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 29A of the Arbitration and Conciliation Act, 1996, without getting influenced by any of the observations made by this Court in this order.

12. 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 respondent remains *ex parte*, the petitioner shall pay the entire fee and



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other incidental charges to the Arbitrator and later recover the same from the respondent.

13. Since this Court has appointed the Arbitrator, it is open to the petitioner as well as the respondent to seek other reliefs under Section 17 of the Arbitration and Conciliation Act, 1996, before the learned Arbitrator.

14. It is made clear that if the document is under-stamped, it is open for the learned Arbitrator to direct the petitioner to pay necessary stamp duty by subjecting the petitioner to terms by giving the petitioner an opportunity to pay the stamp duty as per the provisions of the Maharashtra Stamp Act, 1958.

15. It is also made clear that the Award if any passed by the learned Arbitrator will be enforceable only if the petitioner pays appropriate court fee before the initiation of the arbitration proceedings.



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16. This Original Petition is allowed accordingly, leaving the parties to bear their own costs.

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Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation : Yes/No

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C.SARAVANAN, J.

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