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Arb.O.P (Com.Div.) No.447 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.06.2024

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

Arb.O.P (Com.Div.) No.447 of 2023

G.Jayakumar

... Petitioner

Vs.

V.Usha

... Respondent

[**Amended as per order dated
19.12.2023 in A.No.6700 of 2023]

Prayer:

Arbitration Original Petition filed under Section 11(5) of the Arbitration and Conciliation Act, 1996 to appoint an Arbitrator to constitute an Arbitral Tribunal for resolving various disputes and differences that have arisen between the petitioner and the respondent from and out of Construction Agreement dated 14.06.2022 and Clause 18 of the said Agreement and to direct the respondent to pay the costs of this petition.

For Petitioner : Mr.E.C.Ramesh

For Respondent : Mr.Tarang K.Sanchet



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ORDER

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This Arbitration Original Petition has been filed to appoint an Arbitrator to adjudicate the dispute between the petitioner and the respondent.

2. The learned counsel for the petitioner would submit that the petitioner and the respondent had entered into Construction Agreement dated 14.06.2022. Subsequent to the said Agreement, the dispute arose between the parties with regard to payment. Therefore, the petitioner sent a notice dated 22.04.2023 invoking Arbitration in terms of the Clause 18 of the Agreement.

3. Further, he would submit that the present dispute, which is arising out of the Construction Agreement dated 14.06.2022, is arbitrable in terms of Clause 18 of the said Agreement and thus, this petition has been filed for appointment of Arbitrator.



4. In reply, the learned counsel for the respondent had also accepted the submission made by the learned counsel for the petitioner and requests this Court to appoint a sole Arbitrator.

5. Heard the learned counsel for the petitioner and the respondent and also perused the materials available on record.

6. In the present case, it appears that the dispute between the parties is arising out of the Construction Agreement dated 14.06.2022. Upon perusal of the said agreement, it is clear that the dispute among the parties shall be resolved by virtue of Arbitration as per the Clause 18 of the said Agreement, which reads as follows:

“18. Any dispute arising between the parties herein on account of breach of terms of this agreement the same may be referred to the arbitration and the decision of the Arbitrator shall be binding on both parties and the jurisdiction shall be at Chennai only.”

7. Considering the submissions made by the learned counsel for the petitioner and the respondent and also in view of the fact that the dispute



between the petitioner and the respondent squarely falls within the purview of clause 18 of the Construction Agreement dated 14.06.2022, this Court is inclined to appoint a sole Arbitrator.

8. Accordingly, this Court feels it appropriate to pass the following order:

i) **Mr.R.Umashankar, Advocate, New No.99, Old No.48, 2nd Floor, Armenian Street, Chennai 600 001, Phone Nos.94440 10639, 90036 10639**, 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 to decide the matter without influenced by the observations made by this Court in the present order.

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



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shall bear the entire remuneration and other expenses and thereafter, the petitioner can recover the same directly from the respondent and vice versa.

9. This Arbitration Original Petition is ordered accordingly, leaving the parties to bear their own costs. Since this Court has appointed an Arbitrator, it is open to the petitioner as well as the respondent to seek other reliefs under the provisions of Arbitration and Conciliation Act 1996 before the Arbitrator.

27.06.2024

Speaking/Non-speaking order

Index : Yes / No

Neutral Citation: Yes / No

nsa

Note: Issue order copy on 04.07.2024



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KRISHNAN RAMASAMY.J.,
nsa

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