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Arb. O.P. (Com. Div) No.355 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.10.2024

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THE HON'BLE MR. JUSTICE G.K. ILANTHIRAIYAN

Arb. O.P. (Com. Div) No.355 of 2024

Kalanidhi

... Petitioner

Vs.

S.Kuppuraj

... Respondent

PRAYER: Arbitration Original Petition filed under Section 11 (6) of the Arbitration and Conciliation Act, 1996 to appoint an arbitrator to adjudicate the dispute between the petitioner and the respondent.

For Petitioner : Mr. A. Leeban

For Respondent : Mr. S. Namasivayam

ORDER

This petition has been filed seeking appointment of an arbitrator to adjudicate the dispute between the petitioner and the respondent arising out of a construction agreement dated 22.01.2018.



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2. The petitioner entered into a construction agreement dated 22.01.2018 with the respondent for construction of residential building at Door No.1, 5th Cross Street, Manigandapuram, Thirumullaivoyal, Chennai - 600 062, as stilt plus 2 floors of residential building with total built up area of 2384 sq.ft. which includes Civil, Electrical, Water Supply and Sanitary Works, R.C. Sump (12KL) capacity, interlocking pavers, compound gate, meter room with grill gate at the cost of Rs.41,95,840/-. As per the terms and conditions of the construction agreement, the construction was to commence from first week of February, 2018 and the same was to be completed within 12 months from the date of commencement. However, according to the petitioner, the terms were violated by the respondent. Hence, the petitioner is before this Court.

3. All disputes and difference arising out of the construction agreement shall be resolved as per clause 18 of the construction agreement dated 22.01.2018 in accordance with the Arbitration and Conciliation Act 1996, and the same clause contains the venue of arbitration, which reads as follows



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"18. Arbitration:

The parties hereto agree that in the event of any dispute with relation to the performance, compliance or interpretation of any of the terms of this work agreement. The party who raises such dispute shall issue a notice to the other party to resolve the dispute within 15 days of receipt of such notice, then either party may submit the dispute to arbitration under the provisions of the relevant Arbitration Laws in force within 1 month there from. The venue of arbitration shall be at Chennai and the language shall be in English and the arbitration shall be fast track documents only proceedings. In this agreement the Parties unanimously agree that Mr. Prasad N. Yadav, residing at No-7, Ashoka Road, Alwarpet, Chennai-600018, shall be sole Arbitrator."

4. Therefore, the petitioner casts notice to invoke clause 18 of the construction agreement to conduct arbitration through Madras High Court Arbitration Centre to resolve the dispute. However, on receipt of the same, the respondent failed to reflect and the petitioner was constrained to approach this Court under Section 11 of the Arbitration and Conciliation



Act, 1996.

WEB COPY

Arb. O.P. (Com. Div) No.355 of 2024



5. In this petition, this Court ordered notice and also permitted to take private notice. Today, Mr. S. Namasivayam, learned Counsel appeared on behalf of the respondent and acceded to appoint an arbitrator to adjudicate the dispute between the parties. Therefore, this Court is inclined to appoint an arbitrator to resolve the disputes between the petitioner and the respondent herein.

6. Accordingly, this petition is allowed by appointing Mr. A. Rajaperumal, Advocate (Enrl. No.481/2007) (Mob.No.94446 59238) having address at No.15/8, 4th Floor, Kondi Chetty Street, (Opp. to High Court), Chennai - 600 001, as 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. No Costs.

22.10.2024

Index : Yes/No
Speaking Order : Yes / No
Neutral Citation Case: Yes / No
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4/5



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Arb. O.P. (Com. Div) No.355 of 2024

G.K. ILANTHIRAIYAN. J.,

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Arb. O.P. (Com. Div) No.355 of 2024

22.10.2024