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Arb.OP(Com.Div.)No.354 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 15.10.2024

Coram:

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

Arb.O.P(Com.Div.) No.354 of 2024

Galaria Yusuf

... Petitioner

Vs.

P.C.Ashraf

... Respondent

Prayer: Original Petition is filed under Section 11(6) of the Arbitration and Conciliation Act, 1996, seeking to appoint an independent and impartial arbitrator to hear and decide the disputes between the respondent and the petitioner to arising out of the sale agreement dated 11th April, 2016 and addendum sale agreement dated 1st March 2023 as set out above and to complete the Arbitration proceedings within the stipulated time decided by this Court.

For Petitioner : Mr.N.A.Mohamed Noohu

For Respondent : Mr.P.C.Ashraf
Respondent-in-person

ORDER

This petition is filed under Section 11(6) of the Arbitration and Conciliation Act, 1996, seeking appointment of Arbitrator to hear and decide the disputes between the respondent and the petitioner to arising out of the sale



agreement dated 11th April, 2016 and addendum sale agreement dated 1st March 2023 as set out above and to complete the Arbitration proceedings within the stipulated time decided by this Court.

2. The petitioner states that the petitioner is the tenant under the respondent's father in respect of the subject property. After death of the respondent's father, the respondent and his family members filed a partition suit in C.S.No.972 of 2009 before this Court. In that suit, a compromise decree was passed in which, the subject property was allotted to the respondent subject to the payment to his brother fixed thereon. But the respondent unable to fulfil the conditions of the compromise decree. Therefore, the petitioner and the respondent entered into agreement dated 11.04.2016, and the respondent agreed and undertake to execute sale deed in favour the petitioner and received part of the sale consideration. However, no step was taken by the respondent to executed sale deed in favour of the petitioner. The clause 14 of the sale agreement dated 11.04.2016, is read as follows:-

“14. Any dispute arising between the parties with regard to any of the terms of this agreement of sale shall be referred to an arbitrator who shall be appointed by the parties hereto by mutual consent.”



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3. The learned counsel appearing for the petitioner submitted that the petitioner is always ready and willing to pay the balance sale consideration to the respondent. However, the respondent refused to execute the sale deed in favour of the petitioner. Therefore, the petitioner approached the respondent invoking the arbitration clause and requested the respondent to appoint a sole arbitrator. However, till date neither any answer or progress on registration of sale deed. Therefore, the petitioner filed the present petition for appointment of sole arbitrator.

4. Notice was ordered on the respondent on 01.10.2024. Today, the respondent appeared before this Court in person and seeks one month time to settle the issue. However, the learned counsel appearing for the petitioner is not agreed for that and requested to appoint an arbitrator.

5. On perusal of Clause 14 of the agreement dated 11.04.2016, it is evident that the disputes are required to be resolved through arbitration. The petitioner has 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 Arbitrator is required to be appointed in accordance with Section 11 of the Arbitration Act.



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6. Therefore, this Court is inclined to appoint an arbitrator. Accordingly, this petition is allowed by appointing Mr.K.Premkumar, Advocate, residing at Catholic Centre Building, Room No.MC-05, McLean Street, Catholic Centre, Ground Floor, Chennai- 600 001. (Mobile No.:9841215768) as the 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.

15.10.2024

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

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Mr.K.Premkumar, Advocate,
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G.K.ILANTHIRAIYAN, J.

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