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Arb.O.P.(Com.Div.)No.428 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.01.2024

CORAM :

THE HONOURABLE MR.JUSTICE C.SARAVANAN

Arb.O.P.(Com.Div.)No.428 of 2023

and

Arb.Appln.No.418 of 2023 and Application No.6172 of 2023

Praveen Manavalan,
Represented by his Power of Attorney Agent,
Mrs.Tharini Manavalan,
W/o Mr.Praveen Manavalan,
Flat No.1 A.Ramaniyam Saraswathi,
B-17, 22nd Cross Street, Besant Nagar,
Chennai – 600 090.

... Petitioner

Vs.

M/s.Pearl Community One Developers Private Limited,
Represented by its Managing Director-
Mr.Maurius Anton Chrislyn Cardoza,
Having its registered office at,
Old No.33, New No.8/1,
Haudin Road, Bengaluru – 560 042.

... Respondent

Prayer: Original Petition is filed under Section 11(6) of the Arbitration and Conciliation Act, 1996, praying to appoint an Arbitrator to adjudicate the disputes between the Petitioner and the Respondents in terms of the Memorandum of Agreement dated 30.03.2023 and to direct the respondent to pay costs.



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For Petitioner : M/s.D.Ferdinand
For Respondent : Mr.N.Alagu Narayanan for
M/s.RRN Legal

ORDER

Already connected proceedings in Arb.O.P.(Com.Div.)No.427 of 2023, an Arbitrator has been appointed and liberty has been given to the petitioner herein to move appropriate application for the relief sought for in Arb.Appln.No.419 of 2023 and A.No.6173 of 2023.

2. The order in the present Original Petition was deferred while passing the order on 23.11.2023 wherein an Arbitrator was appointed. An objection was raised earlier by the respondent stating that time for payment by the guarantor has not arisen and therefore the order to be passed in the present petition did not arise in absence of a cause of action. Since no payment has been made before the due date, it is to be construed that there is an arbitrable dispute between the parties and therefore the parties can be relegated to work out the remedy before the same Arbitrator who was appointed in Arb.O.P.(Com.Div.)No.427 of 2023.

3. Consequently, **Mr.P.Giridharan, Advocate (Ms.No.1418/2007)**
(Mobile No.:98846 72733) residing at Vanguard House, 3rd Floor, No.48,



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Second Line Beach, Parrys, Chennai – 600 001, is appointed as an Arbitrator

to resolve the dispute between the petitioner and the respondent.

4. It is open for the applicant to press for relief covered in Arb.Appln.No.418 of 2023 under Section 17 of the Arbitration and Conciliation Act, 1996. The petitioner is also entitled to press for such an interim relief against the guarantor as well before the learned Arbitrator. The respondent is also entitled to move appropriate application for protecting its rights.

5. 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 29-A of the Arbitration and Conciliation Act, 1996, without getting influenced by any of the observations made by this Court in this order.

6. 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



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with the provisions of the Arbitration and Conciliation Act, 1996, and the same shall be borne by the parties equally. In case, the respondent remain *ex parte*, the petitioner shall pay the entire fee and other incidental charges to the Arbitrator and later recover the same from the respondent.

7. The parties are at liberty to workout the venue for Arbitration at Chennai.

8. The Original Petition stands disposed of with the above observations. Consequently Arbitration Application No.418 of 2023 and Application No.6172 of 2023 are also closed. No costs.

9. Since the Court has appointed an 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.

04.01.2024

Index : Yes/No

Internet : Yes/No

Neutral Citation : Yes/No

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C.SARAVANAN, J.

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