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Arb.OP(Com.Div.)No.401 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 25.10.2024

Coram:

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

Arb.OP(Com.Div.) No.401 of 2024

K.Chandra babu

.. Petitioner

/versus/

1.M/s.Air Express Travel & Cargo,
Rep. By its Partner Sunil Shete & S.Vivekanandhan,
Old No.36, New No.71, First Floor,
Thambu Chetty Street, Chennai 600 001

2.Sunil Shete

3.S.Vivekanandhan

... Respondents

Prayer:

Original Petition is filed under Section 11 of the Arbitration and Conciliation Act, 1996, seeking to appoint any competent person as the sole arbitrator to resolve the dispute between the petitioner and the respondents as per clause 14 of the Reconstitution of Partnership Deed dated September 9, 2010.

For Petitioner : Mr.Hari Radhakrishnan

For Respondents : No appearance



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ORDER

This petition is filed under Section 11 of the Arbitration and Conciliation Act, 1996, seeking to appoint any competent person as the sole arbitrator to resolve the dispute between the petitioner and the respondents as per clause 14 of the Reconstitution of Partnership Deed dated 09.09.2010.

2. The petitioner states that the first respondent firm, which is acting as an authorized customs house agent and is engaged in the business of clearing and forwarding of cargo by sea and air, was reconstituted on 15.10.2003 with the petitioner as Managing Partner. The firm was further reconstituted vide reconstitution of partnership deed dated 01.09.2010 with the petitioner as the first partner. The petitioner left the firm in the year 2017. However, though he was paid some amount of salary, he did not receive unpaid salary and profit share. Therefore, the petitioner sent a notice dated 08.06.2024 proposing an arbitrator to resolve the issue, for which there was no response. Clause 14 of Reconstitution of Partnership Deed dated 01.09.2010 contains an arbitration clause for resolving the disputes and the same is extracted hereunder:

“14. That all disputes or differences arising out of it and connected with the partnership or this deed arising between the



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partners or between any one of them or their legal representatives and whether during or after the partnership, shall be referred to arbitrator in accordance with the provisions of the Arbitration and Conciliation Act, 1996 then in force within 3 months from the date of dispute is surfaced between them.”

3. Though notice was served on the respondents, neither the respondents have engaged any counsel to appear before this Court on behalf of them nor the respondents have appeared before this Court in person today. Therefore, there is no impediment to proceed with the matter.

4. On perusal of above clause 14, 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 respondents to consent for the same, Arbitral Tribunal is required to be constituted in accordance with Section 11 of the Arbitration Act.

5. Therefore, this Court is inclined to appoint an arbitrator. Accordingly, this original petition is allowed by appointing Mr.M.Mathivanan, Advocate having address – No.9, Jansi Rani Street, Sree Nagar Colony, Thirumullaivoyil, Chennai 600 062 (mobile: 98843 95557) as the Sole Arbitrator. The sole Arbitrator is directed to



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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.

25.10.2024

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

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G.K.ILANTHIRAIYAN, J.

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