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Arb.O.P(Com.Div.) No.441 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.02.2024

CORAM :

THE HONOURABLE MR.JUSTICE C.SARAVANAN

Arb.O.P.(Com.Div.) No.441 of 2023

M/s.Tamil Nadu Teachers Housing
and Welfare Trust,
Represented by its Managing Trustee
M.Viswanathan,
No.36/1, 1st Floor, North Usman Road,
T.Nagar, Chennai – 600 017.

... Petitioner

Vs.

1.K.Venkatesh Reddy

2.M/s.JSM Infra Ventures,
Represented by J.S.Madhusudhan,
No.B2.BTM 1st Stage,
BG Main Road, Bengaluru – 560 029.

... Respondents

Prayer: Original Petition is filed under Section 11(6) of the Arbitration and Conciliation Act, 1996, to appoint an Arbitrator to resolve the disputes between the petitioner and the first respondent under the provisions of the Arbitration and Conciliation Act, 1996.



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For Petitioner : Mr.V.Manoharan

For Respondents : No appearance

ORDER

The dispute between the petitioner and the respondents herein is governed by arrangements under the Letter of Understanding dated 21.07.2021. It contemplates a Clause for resolution of dispute between the parties through Arbitration. Relevant Clause reads as under:-

“12. In the event of any discrepancy between the parties, they are entitled to specifically enforce this letter of understanding for damages and other relief in law and the disputes shall be referred to Arbitrator, whose decision shall be final and binding on the parties.”

2. The petitioner has issued a Statutory Notice under Section 21 of the Arbitration and Conciliation Act, 1996 to the first respondent on 12.08.2022 and to the second respondent on 31.01.2023, by nominating Mr.V.Srinivasan, Advocate, Notary and Commissioner of Oaths as the Sole Arbitrator.

3. The first respondent has responded to the aforesaid Notice on



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4. Both the respondents have not participated in the process of appointment of Arbitrator in terms of Clause 12 of the Letter of Understanding dated 21.07.2021.

5. The dispute is arbitrable and therefore, the respondents have forfeited their rights to participate in the process of appointment of the Arbitrator and in constitution of the Arbitral Tribunal.

6. Notice taken out on the first respondent has been served. Notice taken out on the second respondent has been served through Paper Publication pursuant to order passed by this Court on 03.01.2024. Thus, there is a deemed service of notice on the second respondent.

7. Considering the above, **Mr.Arun Anbumani, Advocate, Enrollment No.MS/1355/2003, having Office at IV, High Court Chambers, High Court Buildings, Chennai – 600 104, Mobile No.98410 56005**, is appointed as the Sole Arbitrator to enter upon



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reference to resolve/adjudicate the *inter se* dispute between the parties.

8. 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 29A of the Arbitration and Conciliation Act, 1996, without getting influenced by any of the observations made by this Court in this order.

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

10. This Original Petition is allowed accordingly, leaving the parties



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to bear their own costs.

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11. Since this Court has appointed the Arbitrator, it is open to the petitioner as well as the respondents to seek other reliefs under Section 17 of the Arbitration and Conciliation Act, 1996, before the learned Arbitrator.

01.02.2024

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation : Yes/No

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C.SARAVANAN, J.



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