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Arb.OP.(comdiv) No.397 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.10.2024

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

Arb.O.P.(Comm.Div.) No.397 of 2024

R.Anurathi

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Petitioner

-VS-

1.The Ascend Telecom Infrastructure Private Limited,
Defence Colony, Sainikpuri,
Secunderabad, Telengana – 500 094.

2.Ascend Telecom Infrastructure Private Limited,
Indira Nagar, Bangalore.

3.Ascend Telecom Infrastructure Private Limited,
General Manager,
St. Thomas Road,
Chennai – 16.

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Respondents

Petition under Section 11 of the Arbitration and Conciliation Act, 1996, has been filed seeking to appoint a sole arbitrator to adjudicate the dispute between the petitioner and the respondents under the licence agreement dated 09.09.2011.

For Petitioner : Mr.M.Venkadesh Kumar

For Respondents : No Appearance



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ORDER

This petition has been filed under Section 11 of the Arbitration and Conciliation Act, 1996, seeking for appointment of an Arbitrator.

2. Despite service notice on the respondents privately, no one has represented on behalf of them.

3. According to the petitioner, she had entered a licence agreement dated 09.09.2011 with the respondents for operating telecommunication infrastructure including towers and other infrastructures.

4. There seems to be a dispute between the petitioner and the respondents arising out of the licence agreement dated 09.09.2011. There is an arbitration clause available in the agreement dated 09.09.20211, which is extracted hereunder:-

“All disputes/differences relating to and/or arising out of this agreement and/or anything done in pursuance thereof shall be referred to a sole arbitrator to be appointed by the Licensee. The place of arbitration shall be at Chennai and



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the arbitration proceedings shall be carried out in accordance with the provisions of the Arbitration and Conciliation Act, 1996, or any other statutory modifications, enactments or re-enactments thereof and the decision of the sole arbitrator shall be binding on the parties.”

5. The petitioner had invoked the arbitration in accordance with the arbitration clause found in the licence agreement dated 09.09.2011 by sending a notice to the respondents on 26.06.2024. Although the petitioner called upon the respondents to appoint an arbitrator, the respondents have neither sent a reply nor have they suggested any name for appointment of an arbitrator. Since there is a valid arbitral agreement between the parties and that there has been no consensus between the parties for appointment of an arbitrator, this Court will have to necessarily appoint an arbitrator. Accordingly, this petition is allowed with the following directions:-

(a) This Court hereby appoints Mr.G.Tamilselvan, Enrol No.1356/2011, having office at MHAA, 2nd floor, High Court, Chennai-104, Mobile No.9841566778, as the sole arbitrator to adjudicate the dispute between the petitioner and the respondents arising out of the



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licence agreement dated 09.09.2011.

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(b) The Sole Arbitrator appointed by this Court shall be paid remuneration as per the Fourth Schedule of the Arbitration and Conciliation Act, 1996.

(c) The Arbitrator shall adhere to the provisions of Arbitration and Conciliation Act, 1996.

(d) The Arbitrator shall also pass the arbitral award within the stipulated period as prescribed under the Arbitration and Conciliation Act, 1996.

(e) Both the parties shall share equally the fees payable to the Arbitrator.

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G.K.ILANTHIRAIYAN, J.

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