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Arb.O.P.No.54 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.10.2024

CORAM

THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

Arb.O.P.No.54 of 2024

1.Shivanarayan

S/o.Mr.Jorsingh

2.Mrs.Sushila.S

W/o.Mr.Shivnarayan

... Petitioners

Vs.

1.M/s.Annamalai Chetty Dorakannammal Trust

No.24, Thirunavukarasu Street

Triplicane, Chennai 600 005

2.S.Anandan

Managing Trustee of M/s.Annamalai Chetty Doraikannammal Trust

Having residence at

No.24, Thirunavukarasu Street

Triplicane, Chennai 600 005

3.A.Sharmila

Trustee, M/s.Annamalai Chetty Doraikannammal Trust

Having residence at

No.24, Thirunavukarasu Street

Triplicane, Chennai 600 005

4.S.N.Ravichandran

Trustee, M/s.Annamalai Chetty Doraikannammal Trust

Having residence at

D-201, Jasmine Court

No.2/297, Mount Poonamallee High Road

Kattupakkam, Thiruvallur

Tamil Nadu 600 056

... Respondents



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Prayer: Petition filed under Section 11(6) of the Arbitration and Conciliation Act, 1996 praying the following:

- (a) Appoint a sole Arbitrator to constitute single member Arbitral Tribunal to adjudicate/resolve the disputes between parties in accordance with Section 11(6) of the Arbitration and Conciliation Act, 1996
- (b) Direct the Respondents to pay the Petitioners the cost of this instant Petition.

For Petitioners

: Mr.T.Srikanth

ORDER

This Petition has been filed to Appoint a sole Arbitrator to constitute single member Arbitral Tribunal to adjudicate/resolve the disputes between parties in accordance with Section 11(6) of the Arbitration and Conciliation Act, 1996 and to direct the Respondents to pay the Petitioners the cost of this instant Petition.

2.When the matter is taken up for hearing, learned counsel for the Petitioners would submit that the Petitioners and the first Respondent, represented by the second Respondent were entered into an agreement for sale dated 14.07.2019, on certain terms and conditions. However, the first



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Respondent represented by second to fourth Respondents had failed to fulfil the sale conditions viz., (1) to obtain demolition order to demolish the superstructure of the property, (2) to obtain patta in the name of the first Respondent, (3) to obtain an order from this Court seeking permission to sell the property within the agreed time viz., within 14.01.2020. However, the Respondents only able to obtain the sanction of this court to sell the property on 09.12.2020. Since the pre-conditions were not complied with, the Petitioners issued a legal notice dated 13.06.2023, to terminate the agreement for sale dated 14.07.2019 and recall the advance sale consideration of Rs.2,00,000/- along with interest at the rate of 24% per annum till the date of payment as per clause 18 of the agreement for sale dated 14.07.2019. In the reply notice issued by the Respondents dated 20.06.2023, they sought for time and failed to repay the advance sale consideration with interest. Since the Respondents failed to repay the advance sale consideration, the Petitioners invoking clause 20 of the agreement for sale dated 14.07.2019, issued notice of arbitration dated 14.10.2023, calling upon the Respondents to settle the issue. On receipt of the same, the Respondents again sought for time by reply dated 07.11.2023. Hence, the Petitioners are before this Court, seeking appointment of an Arbitrator.



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3.Heard Mr.T.Srikanth, learned counsel for the Petitioner. Perused the available records.

4.Clause 20 of the agreement of sale dated 14.07.2019 reads as follows:

20.Any dispute arising between the parties to this Agreement, whether in relation tot he interpretation of its clauses and conditions, or to the performance of these presents or concerning any act or omission of either party to the dispute/s, or to any act which ought to be done by the parties in dispute, or in relation to any matter whatsoever concerning this agreement shall:

(i)First be discussed and if possible, resolved by the parties who shall cooperate in good faith to resolve the dispute as amicable as possible within 30 working days of service of the arbitration notice.

(ii) If not resolved as aforesaid, shall be finally settled by Arbitration at Chennai. A single arbitrator shall appoint by agreement of Parties herein and failing such agreement, by intervention of Court in Chennai and such arbitration shall be conducted in accordance with the provisions of the Arbitration and Conciliation Act, 1996 as amended up to date. The Arbitration shall be in English.



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5.In view of the above said position, this Court appoints Hon'ble Mr.Justice S.Baskaran, Former Judge, Madras High Court, residing at B004, Kesavdugar Apartment, Kesavaperumalpuram, East Avenue, R.A.Puram, Chennai 600 028, as Sole Arbitrator to resolve the dispute between the Petitioners and the Respondents.

6.The learned Sole Arbitrator is entitled to fix his fees as per the Schedule-IV to the Act. This Court further requests the learned Sole Arbitrator to decide the dispute as expeditiously as possible.

7.Accordingly, this Arbitration Original Petition is ordered.

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Index : Yes/No
Neutral citation : Yes/No
Speaking Order/Non-Speaking Order

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Note: Registry is directed to issue order copy on 28.10.2024



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RMT.TEEKAA RAMAN.J,

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