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Arb.O.P.(Comm.Div.) No.415 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 12.12.2024

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THE HONOURABLE **MR.JUSTICE P.B.BALAJI**

Arb.O.P.(Comm.Div.) No.415 of 2024

M/s. Chola Mandalam Investment and Finance
Company Limited, 'Chola Crest',
C 54 & 55, Super B-4,
Thiru Vi Ka Industrial Estate, Guindy,
Chennai – 600032.

Represented by its Authorised Signatory

...Petitioner

vs.

1.The Director, IBMK Engineering EPC
Private Limited,
KP16/543G Ground Floor, IBM Complex,
Odatheruve, Karassery Mukkam,
Kozhikode,
Near Ganga Mess House, Kerala – 673 602.

2.The Managing Director,
IBMK Engineering EPC
Private Limited,
KP16/543G Ground Floor,
IBM Complex,
Odatheruve, Karassery Mukkam,
Kozhikode,
Near Ganga Mess House, Kerala – 673 602.

3.Mr.Abdul Rahim K.

... Respondents



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PRAYER: Arbitration Original Petition filed under Sections 11 (6) of the Arbitration and Conciliation Act, 1996 to appoint a Sole Arbitrator to adjudicate the dispute arising under Loan Agreement No. XVFPCAL00004667334 Dated 30.03.2022 between the petitioner and the respondents as per the Loan Agreement No. XVFPCAL00004667334 Dated 30.03.2022.

For Petitioner : Mr.D.Pradeep Kumar

For Respondents : No Appearance.

ORDER

This Arbitration Original Petition has been filed under Section 11(6) of the Arbitration and Conciliation Act, 1996 (hereinafter called as 'the Act') to appoint a Sole Arbitrator to adjudicate the dispute arising under Loan Agreement No. XVFPCAL00004667334 Dated 30.03.2022 between the petitioner and the respondents as per the Loan Agreement No. XVFPCAL00004667334 Dated 30.03.2022.

2.I have heard Mr.D.Pradeep Kumar, learned counsel for the



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petitioner.

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3. The learned counsel for the petitioner has filed an affidavit of service before this Court stating that as per the order of this Court, private notice has been sent to the respondents and the same was duly served upon him on 11.11.2024 and despite the same, none appeared on behalf of the respondents. Hence, this Court on 09.12.2024, directed the Registry to print the name of the respondents in the cause list. On 12.12.2024 also, the respondents have not chosen to appear before this Court, Therefore, the respondent is set exparte.

4. The learned counsel for the petitioner would take me through the loan agreement dated 30.03.2022, Clause 29 – *"All disputes, difference and/or claims arising out of this Agreement whether during its subsistence or thereafter shall be settled by arbitration in accordance with the provision of the Arbitration and Conciliation Act, 1996 and the venue shall be at Chennai"* and contend that the parties have agreed to refer to the disputes to Arbitration under the provisions of the Arbitration and



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Conciliation Act, 1996. Therefore, I am satisfied with the existence of an Arbitration agreement between the parties. Section 21 notice has also been served on the respondent.

5. The present Original Petition has been filed under Section 11 for appointment of a sole Arbitrator, invoking the above referred Clause 30 in the loan agreement dated 30.08.2023. In view of the foregoing discussions, I hereby appoint **Mr.Sharath Chandran, Advocate, Gokulam, No.3, Gopala Menon Street, Vepery, Chennai – 600 007, Mob.No.9884445442**, as the Sole Arbitrator. The sole Arbitrator is directed to enter upon reference and adjudicate the dispute in accordance with law.

6. The learned Arbitrator is entitled to fix his fees as per the Schedule-IV to the Act. This Court further requests the learned Arbitrator to endeavor to decide the dispute as expeditiously as possible, however, not later than six (6) months from the date of his entering into reference.

7. Accordingly, this Arbitration Original Petition is allowed.

12.12.2024

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Index : Yes / No

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P.B.BALAJI, J.,

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