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Arb.O.P. (Com.Div.) No.533 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.01.2024

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THE HONOURABLE MR.JUSTICE C.SARAVANAN

Arb.O.P.(Com.Div.)No.533 of 2023

M/s.TSR Films Private Limited,
Rep by its Authorised Signatory,
Mr.M.V.Ravindranath
No.2, (Old No.29), Lake Area,
First Cross Street, Nungambakkam,
Chennai – 600 034.

.. Petitioner

Vs.

M/s.Satish Talkies,
Hasanpur,
Amroha District,
Uttarpradesh – 244 241.

.. Respondent

Prayer: Original Petition is filed under Section 11(5) read with 10(2) of the Arbitration and Conciliation Act, 1996, praying to appoint a sole arbitrator to resolve the dispute between the parties arising out of the Agreement dated 27.12.2021.

For Petitioner : Mr.Prajeeth Premkumar
for Mr.Dhanaram Ramachandran

For Respondent : No Appearance



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ORDER

The petitioner has taken out a notice through Court as well as privately, as was ordered by this Court vide order dated 07.11.2023. The petitioner has downloaded the extract from the postal department website, which indicates that notice taken out on the respondent has been received by the respondent on 24.11.2023. Thus, there is a service of notice on the respondent.

2. This petition has been filed under Section 11(5) read with 10(2) of the Arbitration and Conciliation Act, 1996, to appoint a sole arbitrator to resolve the dispute between the parties arising out of the Agreement dated 27.12.2021.

3. The dispute between the petitioner and the respondent is arbitrable in terms of Clause 10 of the agreement dated 27.12.2021.

Relevant Clause reads as under:-

“10.Dispute Resolution:-

In case of any dispute, the parties may resolve the dispute by mutual discussion and negotiation. In the event of failure of negotiations, the dispute shall be resolved by referring the matter to a sole arbitrator under Arbitration and Conciliation Act, 1996. The



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language of proceedings shall be English. The seat and venue of arbitration shall be Mumbai/Chennai.”

4. Since the respondent has failed to response the same, which constrained that the respondent has forfeited the rights to appoint an arbitrator.

5. Considering the same, Court is inclined to pass the following order:-

(i) **Mr.N.Umapathi, Advocate, (Mobile No.:9840175275)** having office at **No.1, Law Chambers, High Court Buildings, Chennai – 600 104**, is appointed as an Arbitrator to enter upon reference and adjudicate / resolve the *inter se* dispute between the parties.

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

(iii) 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 respondent remain *ex parte*, the petitioners shall pay the entire fee and other incidental charges to the Arbitrator and later recover the same from the respondent.

6. The parties are at liberty to workout the venue for Arbitration at Chennai.

7. The Original Petition is allowed with the above observations, leaving the parties to bear their own costs.

8. Since the Court has appointed an Arbitrator, it is open to the petitioner as well as the respondent to seek other reliefs under Section 17



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of the Arbitration and Conciliation Act, 1996, before the learned
Arbitrator.

31.01.2024

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Index : Yes / No
Internet : Yes / No
Neutral Citation : Yes / No



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C.SARAVANAN, J.

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