



WEB COPY



Arb.O.P(Com.Div.) No.555 of 2023

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

DATED : 18.01.2024

CORAM :

**THE HONOURABLE MR.JUSTICE C.SARAVANAN**

Arb.O.P.(Com.Div.) No.555 of 2023

O.Arumugasamy

... Petitioner

Vs.

1.M.Leela

2.M.Aarthi

3.Kiran Nagaraj

4.M.Avinash

... Respondents

Prayer: Original Petition is filed under Section 11(6) of the Arbitration and Conciliation Act, 1996, praying for appointment of an Arbitrator on behalf of the respondents in terms of Clause 7 of the Memorandum of Understanding dated 06.10.2007 to enable constitution of an Arbitration Tribunal comprising of Honourable Justice Vasuki (Retd.) (Petitioner nominated Arbitrator), Second Arbitrator appointed by this Honourable Court and Third Arbitrator to be appointed by the said two Arbitrators to resolve the disputes between parties, in accordance with the Arbitration & Conciliation Act, 1996 and to direct the respondents to pay the petitioner, costs of the petition.

For Petitioner : Ms.R.Vidhya Shankar

For Respondents : Mr.Niranjan Rajagopal



**ORDER**

WEB COPY

This Original Petition has been filed under Section 11(6) of the Arbitration and Conciliation Act, 1996 for appointment of an Arbitrator.

2. Mr.Niranjan Rajagopal, learned counsel appears on behalf of the respondents and submits that vakalat on behalf of the third respondent will be filed by end of this week.

3. Both the learned counsels have consented for appointment of Mr.Kabir.M.K., Senior Advocate, as a Sole Arbitrator to resolve the dispute between the parties, although the arbitration clause contemplates an Arbitral Tribunal proceeded over by three members consisting of two nominee arbitrators and one presiding arbitrator.

4. Recording the same, **Mr.Kabir.M.K., Senior Advocate, having Office at No.80, Law Chambers, High Court Buildings, Chennai - 600 104, (Moblie No.98400 44258)**, is appointed as a Sole Arbitrator to enter upon reference to adjudicate the *inter se* dispute between the parties.



5. 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 touching on limitation.

6. 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.

7. 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.

**C.SARAVANAN, J.**



Arb.O.P(Com.Div.) No.555 of 2023

arb

WEB COPY

8. All the issues relating to merits including limitation shall be decided by the arbitrator under Section 16 of the Arbitration and Conciliation Act, 1996.

9. This Original Petition is allowed accordingly, leaving the parties to bear their own costs.

**18.01.2024**

Index : Yes/No

Internet : Yes/No

Speaking Order/Non-Speaking Order

Neutral Citation : Yes/No

arb

Arb.O.P.(Com.Div.) No.555 of 2023