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Arb.O.P.(Com.Div.). No. 421 of 2024

And

Arb.Appln.No. 674 of 2024

C.V.KARTHIKEYAN, J.

Application has been filed taking advantage of Section 14(2) of the Arbitration and Conciliation Act 1996 primarily based on the Judgment of the Hon'ble Supreme Court in ***(2020) 20 SCC 760 [Perkins Eastman Architects DPC and another Vs. HSCC (India) Ltd.,]*** that unilateral appointment of an arbitrator by one of the parties cannot withstand the scrutiny of the Court.

2. The petitioner and the first and second respondents were partners in a partnership firm. Disputes arose among the them. It may not be appropriate on my part to examine the nature of the disputes. But however, the deed of partnership which was dated 21.09.2024 with respect to the firm Black Pepper Resorts, contain a clause that if there are disputes or differences among the partners, the same should be settled by Arbitration and the award is final. The said clause is as follows:-

“16. Arbitration: That if any dispute or difference of opinion arises among the partners the same shall be settled by the



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arbitrators, who are appointed by the partners and their award is final.”

3. Consequent to disputes which had arisen the first respondent herein had issued notice purportedly under Section 21 of the Act on 22.07.2024 to the petitioner and the second respondent and after claiming that there are disputes which should be referred to arbitration, the first respondent had given the name of the third respondent as the sole Arbitrator to adjudicate the disputes. The petitioner herein had replied on 24.08.2024 wherein he had contested the claim of the first respondent that the petitioner herein was liable to pay various amounts under the deed and had expressed unwillingness to participate in the arbitral proceedings.

4. The main argument advanced on behalf of the petitioner herein is about the unilateral appointment and the decision taken unilaterally by the first respondent to nominate the third respondent as the arbitrator. It is contended that there should have been consensus in such appointment.

5. But, thankfully both the learned counsels for the petitioner and for the first and second respondents, stated that since the third respondent had entered reference at the behest of the first respondent, it may not be appropriate for him to continue to act as an arbitrator and that the Court can examine the possibility of appointing yet another arbitrator. A choice



was given that a Senior counsel could be appointed as a Arbitrator.

6. Accordingly, from the panel of the list of Arbitrators, the Court appoints Mr. M.Aravind Subramaniam, learned Senior Advocate, Caithness Hall, 2nd Floor, Old No.157, New No. 323, Linghi Chetty Street, Chennai – 600 015, Mobile No. 9840037677, as Arbitrator to enter reference on the issues between the petitioner and the first and second respondents. The arbitrator may determine his fees in accordance with the schedule to the Act. He may endeavour to pass the final award without any undue delay. The petitioner, the first and second respondent are directed to co-operate with the Arbitrator now appointed by this Court, and to ensure that the arbitral proceedings are concluded as expeditiously as possible. This Arbitration Original Petition stands allowed in the aforesaid terms. Consequently, Arb. Appln.No. 674 of 2024 stands closed.

vsg

08.11.2024

C.V.KARTHIKEYAN, J.

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