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Arb.O.P. (Com.Div.) No.593 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.02.2024

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THE HONOURABLE MR.JUSTICE C.SARAVANAN

Arb.O.P.(Com.Div.)No.593 of 2023

1.V.Cheziyan

2.M.Velusamy

3.K.Rathi

.. Petitioners

Vs.

1.V.M.Thirumurugan

2.T.Muthulakshmi

3.V.A.Muthuselvam

.. Respondents

Prayer: Original Petition is filed under Section 11(5) of the Arbitration and Conciliation Act, 1996, praying to appoint a Sole Arbitrator for settlement of the dispute with the petitioners and the respondents of the company namely M/s. YANAI APPUCHI SAKTHI VINAYAGAR TEXTILE and to award costs of the petition.

For Petitioners : Mr.K.Krishnan

For Respondents : Mr.S.Arivazhagan



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ORDER

This petition has been filed under Section 11(5) of the Arbitration and Conciliation Act, 1996, to appoint a Sole Arbitrator for settlement of the dispute with the petitioners and the respondents of the company namely M/s. YANAI APPUCHI SAKTHI VINAYAGAR TEXTILE and to award costs of the petition.

2.The petitioners and the respondents appeared to be partners under the Partnership Deed dated 29.11.2004.

3.The Partnership Deed dated 29.11.2004 contemplates a clause for resolving the dispute through Arbitration. It reads as under:-

“Arbitration: In case of dispute among the partners, the same shall be referred to a body of arbitrators chosen by the partners and their decision shall be final and binding on the firm and partners.”

4.A dispute is said to have been arisen between the parties and therefore, the petitioner has issued a notice under Section 21 of the



Arbitration and Conciliation Act, 1996 to the respondents on 09.07.2021.

However, the respondents denied the content of the notice dated 09.07.2021 by giving an interim reply on 17.08.2021. Thereafter nothing has progressed.

5.The conduct of the respondents indicate that the respondents have forfeited the right to participate in the constitution of the Arbitral Tribunal as per the above clause.

6.Considering the same, Court is inclined to appoint **Hon'ble Mr.Justice N.Kirubakaran, Former Judge, Madras High Court, (Mobile No.9445025454) residing at No.36, 2nd Cross Street, Rayala Nagar, Ramapuram, Chennai – 600 089** as an Arbitrator to enter upon reference and adjudicate / resolve the *inter se* dispute between the parties strictly in accordance with the provisions of the Arbitration and Conciliation Act, 1996.

7.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.

8.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 petitioners shall pay the entire fee and other incidental charges to the Arbitrator and later recover the same from the respondents.

9.Since the Court has appointed an Arbitrator, it is open to the petitioners as well as the respondents to seek other reliefs under Section 17 of the Arbitration and Conciliation Act, 1996, before the learned Arbitrator.



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10.The Original Petition is disposed of with the above observations, leaving the parties to bear their own costs.

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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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