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C.M.A. No.641 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03-12-2024

CORAM:

THE HONOURABLE MR.K.R.SHRIRAM, CHIEF JUSTICE

AND

THE HONOURABLE MR. JUSTICE SENTHILKUMAR RAMAMOORTHY

C.M.A. No.641 of 2024

A Cube Infrastructure
Partnership Firm
represented by its Partner, Sajith Sukumaran
D.No.63-A SRP Complex
Mettupalayam Road
Kavundampalayam
Coimbatore 30

Appellant

vs.

P. Sasikumar

Respondent

Civil Miscellaneous Appeal filed under Section 13(1) of the Commercial Courts Act, 2015, read with Section 37 of the Arbitration and Conciliation Act, seeking to set aside the order dated 07.08.2023 passed in A.O.P. No.91 of 2023 on the file of the Commercial Court (District Judge Cadre) at Coimbatore.

For appellant

Dr. G. Krishnamurthy

For respondent

Mr. N. Krishnakumar
for M/s. Sarvabhauman Associates



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JUDGMENT

(delivered by the Hon'ble The Chief Justice)

After the appeal filed under Section 37 of the Arbitration and Conciliation Act, 1996, was heard for sometime, both parties, represented by their respective advocates, agreed to set aside the impugned award dated 07.08.2023 passed in A.O.P. No.91 of 2023 and to refer the dispute to fresh arbitration.

2. A print out of the scanned affidavit of respondent no.1 affirmed on 02.12.2024 is also tendered. Counsel states that original is being sent by courier to him and is expected in a day or two. Counsel undertakes to file the original in the Court records within a week from today. Undertaking is accepted. Registry to take the same on file.

3. Appellant has suggested the name of one Mr. Muruganantham and one Mr. Naraja, both retired District Judges based at Coimbatore, whereas, respondent no.1 has suggested that Mr. Muruganantham, District Judge, (Retd.) be appointed as the Arbitrator.



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4. Therefore, since Mr. Muruganantham being common name suggested by both sides, counsels request that Mr. Muruganantham, District Judge (Retd.), be appointed as Sole Arbitrator to arbitrate on all disputes arising out of / relating to and in connection with the agreement dated 03.01.2018, including counter claim, if any.

5. Fees and expenses of the Arbitrator shall be initially shared equally between the parties and shall form subject matter of costs in the arbitral proceedings. Arbitrator shall file with the parties, a disclosure, as required under Section 12(5) of the Act and forward a copy thereof to the Registry and the communication shall be addressed to the Registrar (Judicial) of this Court within three weeks from the date a copy of this order is made available.

6. It is clarified that the period between the commencement of the arbitration and the date of this order shall stand excluded in computing time prescribed by the Limitation Act, 1963, as provided under Section 43(4) of the Act. It is further clarified that we have not made any observation on the merits of the matter. The Arbitrator shall, within 10 days of receiving a copy of this



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order, fix the date for preliminary hearing.

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The appeal is disposed of. No costs.

(K.R.SHRIRAM, C.J.)

(SENTHILKUMARRAMAMOORTHY, J.)

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Index : Yes/No
Neutral Citation : Yes/No
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