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Arb.O.P. (Com.Div.) No.4 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.02.2024

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THE HONOURABLE MR.JUSTICE C.SARAVANAN

Arb.O.P.(Com.Div.)No.4 of 2024

S.J.Neeraja

.. Petitioner

Vs.

N.Babu

.. Respondent

Prayer: Original Petition is filed under Section 11(4) of the Arbitration and Conciliation Act, 1996, praying to appoint a sole Arbitrator to hear and decide the disputes between the parties arising out of the arbitral Agreement dated 15.07.2012.

For Petitioner : M/s.S.Pugalenth

For Respondent : Mr.M.V.Athiseshan

ORDER

This petition has been filed under Section 11(4) of the Arbitration and Conciliation Act, 1996 to appoint a sole Arbitrator to hear and decide the disputes between the parties arising out of the arbitral Agreement dated 15.07.2012.



2. The dispute between the petitioner and the respondent is arbitrable in terms of Clause 20 of the Joint Venture Agreement dated 15.07.2012. Clause 20 of the Joint Venture Agreement dated 15.07.2012 reads as under:-

“20. The parties agree that in case of any dispute arising in respect of this Joint Venture Agreement the matter shall be referred to arbitration of the Arbitrator in consonance with the provisions of the Indian Arbitration and Conciliation Act, 1996 as may be amended from time to time. The decision of the Arbitrators so appointed shall be binding upon both the parties.”

3. The petitioner has also issued a notice under Section 21 of the Arbitration and Conciliation Act, 1996 on 23.06.2023. The respondent has responded to the same by a communication/reply notice dated 15.07.2023.

4. It is noticed that the respondent has filed a suit for bare injunction in O.S.No.28 of 2023, in which the petitioner has filed an application under Section 8 of the Arbitration and Conciliation Act, 1996. The parties have been governed by the Joint Venture Agreement dated 15.07.2012 and have agreed for resolving the dispute through Arbitrator.



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

(i) **Hon'ble Mr.Justice P.Devadass, Retired Judge of this Court, (Mobile No.:9444487799) residing at New No.23, Garden Street, VGN Monte Carlo, Dr.Gurusamy Road, Nolambur, Chennai-600 095,** 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 petitioner 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 of the Arbitration and Conciliation Act, 1996, before the learned Arbitrator.

06.02.2024

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C.SARAVANAN, J.

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