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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on: 27.11.2024

Pronounced on:29.11.2024

CORAM

THE HONOURABLE MR.JUSTICE P.B.BALAJI

Arb.O.P.(Comm.Div.) No.460 of 2024

OMR Mall Developers Private Limited,
Rep. by its Managing Director,
Mr.Aslam Packeer Mohamed,
Registered Office at
5th Floor, Citi Tower,
117, Sir Thyagaraya Road,
T.Nagar, Chennai – 600 017.

... Petitioner

vs.

M/s.Tablez and Toyz Private Limited,
Represented by its Director,
Registered Office, No.12/971B, Y Tower,
MKK Nair Road, Vazhakkala P.O,
Kakkanand, Ernakulam,
Kerala – 682 030.

... Respondent

PRAYER: Arbitration Original Petition filed under Sections 11 (4) & 11 (6) of the Arbitration and Conciliation Act, 1996,

(a) to appoint a Sole Arbitrator to adjudicate the dispute between the Petitioner and the Respondent .

(b) direct the Respondent to pay the cost of this Petition.

For Petitioner : Mr.T.G.Niranjana for
M/s.Surana & Surana
For Respondent : No Appearance.



ORDER

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This Arbitration Original Petition has been filed under Section 11(6) of the Arbitration and Conciliation Act, 1996 (hereinafter called as 'the Act') to appoint an Arbitrator in respect of the dispute arising out of the Leave and License Agreement dated 30.01.2019.

2. I have heard Ms.T.G.Niranjana, learned counsel for M/s.Surana & Surana. Despite service of notice of the respondent, the respondent has not chosen to either appear in person or through counsel.

3. I have gone through the records and have also considered the submissions advanced by the learned counsel for the petitioner.

4. Admittedly, the petitioner and the respondent entered into a Leave and License Agreement on 30.01.2019. The petitioner is the owner of the premises measuring about 4.9 acres. In respect of a portion of the said premises, the respondent was given a Leave and License Agreement. Disputes have admittedly arisen between the petitioner and the respondent which is evident from the exchange of notices between the parties.



5. As the petitioner has not been able to redress its grievances, the petitioner has invoked the arbitration Clause under the agreement dated 30.01.2019. I find from the said agreement that the parties have agreed to resolve their disputes and differences through arbitration under the Arbitration and Conciliation Act, 1996 by the sole Arbitrator to be jointly appointed by both the parties. The parties have also agreed that the venue of arbitration would be at Chennai.

6. Referring to the said Clause in the agreement, the learned counsel for the petitioner seeks for appointment of sole arbitrator, as despite exchange of notices, the respondent has not come forward to agree for appointing a sole arbitrator. The claim of the petitioner is that the respondent is liable to pay a sum of Rs.5,46,40,785/-, together with interest at the rate of 24% per annum from the date of default. It is in respect of this claim that the above Arbitration Original Petition has been instituted. In view of the foregoing and in terms of the agreement entered into between the petitioner and the respondent, I am satisfied that the petitioner has made out a case for appointment of sole arbitrator.



7. Accordingly, this Court is inclined to appoint a sole Arbitrator viz.,

MR. K.S. GOWTHAMAN, Advocate, having address at No.224-B, 4th Cross Street, Natesan Nagar, Virugambakkam, Chennai 600 092 (cell: 98412 70992), e.mail: gowthamdesk@gmail.com as the Sole Arbitrator.

The sole Arbitrator is directed to enter upon reference and adjudicate the dispute in accordance with law.

8. The learned Arbitrator is entitled to fix his fees as per the Schedule-IV to the Act. This Court further requests the learned Arbitrator to endeavor to decide the dispute as expeditiously as possible, however, not later than six (6) months from the date of his entering into reference.

9. Accordingly, this Arbitration Original Petition is allowed.

29.11.2024

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Index : Yes / No

Internet : Yes / No



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P.B.BALAJI, J.,

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