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Arb.O.P.(Com.Div.) No.7 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.02.2024

CORAM :

THE HONOURABLE MR.JUSTICE C.SARAVANAN

Arb.O.P.(Com.Div.) No.7 of 2024

M/s.Johnson Lifts Private Limited,
Represented by its Authorised Signatory
Rose Blessed King,
No.1, East Main Road,
Anna Nagar, West Extension,
Chennai – 600 101.

... Petitioner

Vs.

M/s.Yuvraj Mega Mart,
Represented by its Authorised Signatory,
Ramesh S.Bharuka,
P.No.23, Near Dadawadi Mandir,
Devalagon Raja Road,
Opposite to Indian Oil Petrol Pump,
Jalna – 431 203.

... Respondent

Prayer: Original Petition is filed under Section 11(6)(b) of the Arbitration and Conciliation Act, 1996, praying to appoint an Arbitrator to adjudicate the disputes that have arisen between the petitioner and the respondent under the Contract/Work Order bearing Order No.JE/57/MHO8/00001/E/A01 dated 09.05.2019.

For Petitioner	: Mr.G.Prithviraj
For Respondent	: No appearance



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ORDER

WEB COPY Notice on the respondent has been served.

2. Despite the same, there is no representation on behalf of the respondent.

3. Considering the same, this Original Petition is taken up for hearing and is being disposed based on the submission of the learned counsel for the petitioner and the available documents that are on record before this Court.

4. The dispute between the petitioner and the respondent is *prima facie* arbitrable under Work Order dated 09.05.2019. It reads as under:-

“Arbitration :

If any dispute, controversy or claim between the parties arises out of or in connection with this contract, including its existence, breach, termination or validity thereof, the parties shall use all reasonable endeavours to negotiate with a view to resolve the dispute amicably. If the dispute has not been settled pursuant to the said negotiations and the parties are unable to resolve the dispute amicably, then the dispute shall be finally resolved by Arbitration as per the provisions of Arbitration and Conciliation Act, 1996 and the Rules framed therewith by a Sole Arbitrator appointed by Johnson Lifts from the panel of Arbitrators maintained by



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Johnson Lifts. Any such Arbitration award passed by the said Arbitrator shall be final and binding on both parties. The seat of the Arbitration shall be at Chennai and the language of the Arbitration proceedings shall be English.”

5. The seat of arbitration is Chennai. The petitioner has also issued a notice under Section 21 of the Arbitration and Conciliation Act, 1996 on 31.05.2023, requesting the respondent to consent for appointment of a counsel nominated by the petitioner as the Sole Arbitrator.

6. The Court Notice was also delivered on the respondent on 05.06.2023. However, the respondent has not bothered to respond to the same. The respondent has also not bothered to respond to the private notice that was ordered on the respondent. Considering the same, it is to be construed that the respondent has forfeited the rights to participate in the nomination of the Arbitrator.

7. Therefore, Court is inclined to appoint **Mr.S.R.Sundar, Advocate, Enrollment No.MS/217/1997, having Office at 261/127, 2nd Floor, Rohith Towers, Angappa Naicker Street, Chennai – 600 001, Mobile No.94440 55853**, as the sole arbitrator to enter upon reference to



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resolve the *inter se* dispute between the parties.

8. 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 29A of the Arbitration and Conciliation Act, 1996, without getting influenced by any of the observations made by this Court in this order.

9. 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 remains *ex parte*, the petitioner shall pay the entire fee and other incidental charges to the Arbitrator and later recover the same from the respondent subject to the Final Award to be passed by the learned



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Arbitrator.

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10. This Original Petition is allowed accordingly, leaving the parties to bear their own costs.

11. Since this Court has appointed the 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.

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Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation : Yes/No

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C.SARAVANAN, J.

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