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Arb. O.P. (Com. Div.) No.49 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.03.2025

CORAM

THE HON'BLE Mr. JUSTICE ABDUL QUDDHOSE

Arb.O.P (Com.Div.) No.49 of 2024

K & R RAIL ENGINEERING LIMITED,
Rep. By its Director

... Petitioner

vs.

Mahindra & Mahindra Financial Services limited ,
Having its office at,
No. 37 & 38, 4th Floor,
ASV Ramana Tower,
Venkatanarayana Road,
T. Nagar , Chennai - 600 017 .

Also having office at,
Gateway Building , Apollo Bunder ,
Mumbai - 400001 .
and its Corporate office at,
4th Floor , Mahindra Towers,
Dr. G. M. Bhosale Marg ,
P. K. Kurne Chowk,
Worli,
Mumbai - 400 018 .

... Respondent



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Prayer : Arbitration Original Petition (Commercial Division) filed under Section 11 of the Arbitration and Conciliation Act, 1996 to the following :-

a) Appoint an arbitrator to adjudicate the disputes between the petitioner and the respondent in the terms of the arbitration agreement dated 27.03.2023.

b) Direct the respondent to pay the costs and compensate the petitioner for violating the terms of the agreement and causing unnecessary agony to the petitioner.

c) Grant such further reliefs as this Court may deem fit under the circumstances of the case and thus render justice.

For petitioner	: Mr. N. Stalin
For respondent	: Mr.Avinash Wadhwani for Ms.V. Srimathi

ORDER

This petition has been filed under Section 11 of the Arbitration and Conciliation Act, 1996, seeking for appointment of an arbitrator by this Court.

2. The petitioner had entered into an Agreement, dated 27.03.2023 with the respondent. There seems to be a dispute between the parties arising out of the Agreement, dated 27.03.2023. The Agreement, dated



27.03.2023 contains an arbitration clause which is extracted hereunder :-

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12.2 Governing Law, Arbitration and Jurisdiction : This Agreement shall be governed by the laws of India. All disputes, differences, claims and demands arising under or pursuant to or concerning this Agreement shall be referred to arbitration in accordance with the provisions of the arbitration & conciliation Act, 1996 or any statutory amendment or re-enactment thereof, subject to the following conditions :

12.2.1 arbitration shall be conducted by a sole arbitrator to be nominated by the Lessor with the consent of the Lessee which shall not be withheld without any genuine reason communicated. Non communication of any option / objection by Lessee shall be deemed to be acceptance for the appointment of sole arbitrator.

12.2.2 The arbitration proceedings shall be in English and the venue of arbitration shall be Chennai.

12.2.3 The award of the arbitrator shall be final and binding on the parties.

3. The petitioner has invoked arbitration in accordance with the arbitration clause contained in the Agreement, dated 27.03.2023 by



issuing notice to the respondent on 02.01.2025 to comply with the requirements of Section 21 of the Arbitration and Conciliation Act, 1996. A reply has also been sent by the respondent to the said arbitration invocation. Since, there was no consensus between the parties with regard to the name of the Arbitrator, the petitioner has been constrained to file this petition under Section 11 of the Arbitration and Conciliation Act, 1996, seeking for appointment of an Arbitrator.

4. Since there was no consensus between the parties with regard to the name of the Arbitrator and since there exists an arbitration clause in the Agreement, dated 27.03.2023, this Court will have to necessarily appoint an Arbitrator to adjudicate the dispute between the parties.

5. Accordingly, this Arbitration Original Petition is allowed as prayed for by issuing the following directions :-

a) This Court appoints Mrs.Gladys Rosette C. Daniel, Advocate, who is having office at III Floor, YMCA Building, No.223, NSC Bose Road, Chennai - 600 001 (Mobile No.9789980909) as the sole Arbitrator to adjudicate the dispute between the parties arising out of the aforesaid Agreement, dated 27.03.2023.



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(b) The Arbitrator shall be paid his/her remuneration / fees in accordance with the 4th schedule of the Arbitration and Conciliation Act, 1996.

(c) Both the parties shall equally share the arbitrator's fees.

(d) The Arbitrator shall conduct the arbitration in accordance with the provisions of the Arbitration and Conciliation Act, 1996 and shall complete the arbitration within the specified time as prescribed under the said Act.

27.03.2025

Index: Yes/ No

Speaking order / Non speaking order

Neutral citation : Yes / No

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