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Arb.O.P.(Com. Div.) No.56 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.03.2025

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THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

Arb.O.P.(Com. Div.) No.56 of 2025

M/s.Medicine Chamber

... Petitioner

Vs.

Reliance General Insurance Company Ltd.

... Respondent

PRAYER: Petition filed under Section 11 of the Arbitration and Conciliation Act, 1996 to appoint a sole arbitrator to adjudicate the dispute between the petitioner and the respondent arising out of the Insurance Policy bearing Policy No.120162321230052691.

For Petitioner : M/s. Avinash Krishnan Ravi Chandra
Prakash Surana

For Respondent : Ms.Ashwini Vaidialingam

ORDER

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

2. The arbitration clause stipulates appointment of three number arbitral Tribunal; one to be appointed by each of the parties and the



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presiding arbitrator to be appointed by both the arbitrators appointed by the parties. The arbitration pertains to a dispute arising out of an Insurance Policy.

3. The respondent Insurance Company has questioned the arbitrability of the dispute. According to them, the Insurance claim of the petitioner has been rejected at the threshold itself, since the insurance policy does not give coverage for the insurance claim made by the petitioner and therefore, the arbitration clause contained in the insurance policy cannot be relied upon by the petitioner for the purpose of seeking appointment of an arbitrator by this Court.

4. It is settled law that this Court, while deciding an application under Section 11 of the Arbitration and Conciliation Act, 1996, is only required to take a *prima facie* view on the issue of arbitrability and not a final view as the arbitral Tribunal is empowered to decide this issue under Section 16 of the Arbitration and Conciliation Act, 1996. Whenever, a doubt arises as to whether there exists a valid arbitration clause, the parties will have to be referred to arbitration by appointing an arbitrator under Section 11 of the



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Arbitration and Conciliation Act, 1996. All debatable issues and questions with regard to the existence of arbitration agreement have to be left open for the arbitral Tribunal to adjudicate under Section 16 of the Arbitration and Conciliation Act, 1996.

5. In the instant case, a categorical assertion has been made by the petitioner that under the said insurance policy, they have been covered and despite the said coverage, the respondent has not settled their insurance claim. The same is disputed by the respondent as seen from the counter filed before this Court. The dispute raised by the respondent cannot be adjudicated by this Court while this Court is deciding an application under Section 11 of the Arbitration and Conciliation Act, 1996. If at all the said dispute can be adjudicated only by the arbitrator to be appointed by this Court. Admittedly, there exists an arbitration clause in the insurance policy, which is the subject matter of dispute between the parties.

6. The arbitration clause contained in the insurance policy dated 01.12.2023 entered into between the petitioner and the respondent is extracted hereunder:



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"Arbitration

If any dispute or difference arises between You and Us regarding the amount of claim to be paid under this policy (liability having been admitted by Us), such difference shall independently of all other questions, be referred to the decision of a sole arbitrator to be appointed in writing by You and Us or if You and We cannot agree upon a single arbitrator within 30 days of either of Us opting for arbitration, the same shall be referred to a panel of three arbitrators comprising of two arbitrators, one to be appointed by each of Us, to the dispute/difference and the third arbitrator to be appointed by such two arbitrators and arbitration shall be conducted under and in accordance with the provisions of the Arbitration and Conciliation Act, 1996."

7. The petitioner has already nominated their arbitrator viz., Mr.S. Santosh, Advocate. Since the respondent has not nominated their arbitrator,



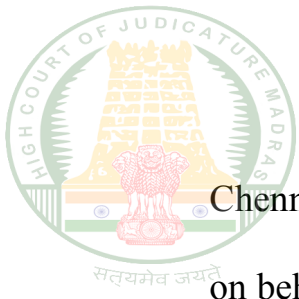
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this Court will have to necessarily appoint the respondent's arbitrator. The arbitration clause stipulates that the arbitral panel shall comprises of three members. One to be appointed by each of the parties and the presiding arbitrator to be appointed by the said arbitrators. A specific request was made by the petitioner through their invocation notice dated 24.10.2024, requesting the respondent to appoint their arbitrator as per the arbitration clause. However, the respondent has chosen not to appoint their arbitrator as they have disputed the arbitrability of the dispute.

8. As observed earlier, the contentions of the respondent as raised in the counter as well as the submissions made by the learned counsel for the respondent cannot be adjudicated in an application filed under Section 11 of the Arbitration and Conciliation Act, 1996 and if at all the same can be adjudicated only by the arbitral Tribunal either under Section 16 of the Arbitration and Conciliation Act, 1996 or in the final arbitral award.

9. For the foregoing reasons, this Arbitration Original Petition is allowed as prayed for by issuing the following directions:

a) Mr.Srinath Sridevan, Senior Advocate, who is having office at "Access House", 2nd floor, 24, Judge Jambulingam Street, Mylapore,



Chennai - 600 004 (Mobile No.98410 49950) is appointed as the arbitrator
on behalf of the respondent;

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b)The arbitrator viz., Mr.S. Santosh, advocate, who has been nominated by the petitioner and Mr.Srinath Sridevan, Senior Advocate appointed by this Court shall by consensus appoint the presiding arbitrator;

c) The arbitral Tribunal comprising of the said three arbitrators shall decide the dispute between the petitioner and the respondent arising out of the Insurance Policy bearing Policy No.120162321230052691;

(b) The arbitral Tribunal shall be paid their remuneration / fees in accordance with the 4th schedule of the Arbitration and Conciliation Act, 1996 or as per the mutual consent of both the parties;

(c) Both the parties shall equally share the arbitral Tribunal's fees;

(d) The arbitral Tribunal 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.

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Index : Yes/No
Speaking Order : Yes / No
Neutral Citation Case: Yes / No
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