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Arb.O.P.(Com. Div.) No.95 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.06.2025

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THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

Arb.O.P.(Com. Div.) No.95 of 2025

R. Ramesh

... Petitioner

Vs.

1. S. Dhanavel
2. D. Rajeswari

3. VKS Agro Foods Hi Tech Rice Industry,
Represented by its Managing Partner,
S. Dhanavel,
Vadunganir Vellottamparppu Post,
Pasur (Via),
Erode - 638 154.

... Respondents

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 respondents arising out of the Deed of Reconstitution of Partnership dated 21.10.2020 and to direct the respondents to pay the cost.

For Petitioner : Ms. Shubhani D. Krishnan

For Respondents : Mr. B. Subhash



ORDER

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No.295 of 2024 of 2024 on the file of the Sub Court, Kodumudi has been withdrawn. The said suit was also dealing with the same subject matter. The order passed by the Sub Court, Kodumudi has been placed on record by the learned counsel for the petitioner, which confirms that the suit in O.S. No.295 of 2024 on the file of the Sub Court, Kodumudi has been dismissed as withdrawn. A plea has been taken by the respondents in the counter that in view of the pendency of the said suit, this petition is not maintainable. Since the said suit has been withdrawn, this Court shall now decide as to whether the dispute between the parties can be referred to arbitration by the appointment of an arbitrator by this Court.

2. There seems to be a dispute between the petitioner and the respondents arising out of the Deed of Reconstitution of Partnership dated 21.10.2020. There exists an arbitration clause in the Deed of Reconstitution of Partnership dated 21.10.2020 and the same is extracted hereunder:

"18. In the case of dispute the same shall be



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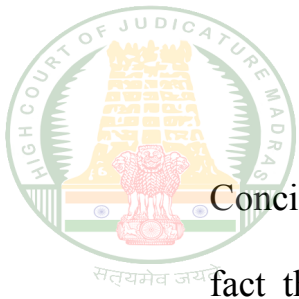
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referred to an arbitrator whose award shall be final and binding on the parties herein. The procedure of the Arbitration shall be governed by the Arbitration Act, 1940."

3. The petitioner has invoked arbitration in accordance with the arbitration clause by issuing notices to the respondents on 02.12.2024 to comply with the requirements of Section 21 of the Arbitration and Conciliation Act, 1996. The notices sent by the petitioner have been returned with an endorsement 'unclaimed' by all the respondents, which amounts to deemed service.

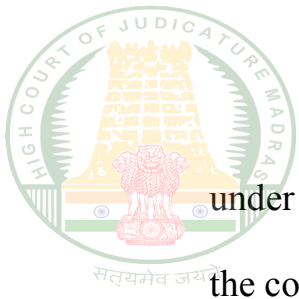
4. Learned counsel for the respondents would submit that there is no dispute between the petitioner and the respondents. But, however, he does not dispute the existence of the arbitration clause in the contract, which is the subject matter of dispute raised by the petitioner against the respondents. The said arbitration clause, as extracted supra, is found in the Deed of Reconstitution of Partnership dated 21.10.2020. The petitioner has also complied with the requirements of Section 21 of the Arbitration and



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Conciliation Act, 1996 by issuing notice to the respondents. Only due to the fact that the respondents having not accepted for arbitration, eventhough there exists an arbitration clause in the Deed of Reconstitution of Partnership dated 21.10.2020, this petition has been filed.

5. The law is now well settled that while deciding an application under Section 11 of the Arbitration and Conciliation Act, 1996, being a referral Court, this Court has to only look into as to whether there exists an arbitration clause or not. Admittedly, there exists an arbitration clause in the Deed of Reconstitution of Partnership dated 21.10.2020, which is the subject matter of dispute between the petitioner and the respondents. The petitioner and the respondents have also signed the Deed of Reconstitution of Partnership dated 21.10.2020, which contains the arbitration clause. The existence of the arbitration clause has also not been disputed by the respondents. But, their only contention is that since there is no dispute, the claim of the petitioner cannot be referred to arbitration. All those contentions can be adjudicated only by the arbitrator and not by this Court in the petition filed under Section 11 of the Arbitration and Conciliation Act, 1996. The respondents can raise all those contentions either by filing an application



under Section 16 of the Arbitration and Conciliation Act, 1996 or through the counter to be filed by them in the arbitral proceedings.

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6. For the foregoing reasons, this Court has to necessarily appoint an arbitrator as prayed for in this petition. Accordingly, this Arbitration Original Petition is allowed as prayed for by issuing the following directions:

(a) Mr.Justice K. Ravichandra Baabu, Former Judge, Madras High Court, who is having office at No.1D, Crescent Castle, 13/6, II Crescent, Park Road, Gandhi Nagar, Adyar, Chennai - 600 020 (Mobile No.94980 33336) is appointed as the sole Arbitrator to decide the dispute between the petitioner and the respondents arising out of the Deed of Reconstitution of Partnership dated 21.10.2020;

(b) The Arbitrator shall be paid his 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 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.

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7. Liberty is granted to the respondents to raise all objections with regard to the arbitrability of the dispute before the arbitrator by either filing an application under Section 16 of the Arbitration and Conciliation Act, 1996 or through their counter to be filed to the arbitral claim to be made by the petitioner.

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