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Arb. O.P. (Com. Div.) No.103 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.103 of 2025

1. Mr. Michael Rayappan Siluvai

2. Mr. Seraphinrayaxavier

... Petitioners

vs.

1. Mr. Premkumar

2. Mr. Radhakrishnan

3. Mr. Prem Chander

4. Mr.Urendar

... Respondents

Prayer : Arbitration Original Petition (Commercial Division) filed under Section 11(5) of the Arbitration and Conciliation Act, 1996 as amended by Act, 2019 seeking to appoint Justice G M Akbar Ali, Former Judge, High Court of Madras as the Sole Arbitrator to decide the disputes and differences between the Petitioners and Respondents in respect of LLP Agreement dated 15.12.2023 and Supplementary LLP Agreement dated 08.07.2024

For petitioners

For respondents

: Mr. Inshiya Farveen Iqbal

: Mr.Pawan Jhabakh for R1,
R3 and R4



ORDER

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2. The notices sent to the respondents 1,3 and 4 have been returned with an endorsement “refused”. The returned covers have been filed along with the Affidavit of Service. The respondents 1, 3 and 4 are now represented by a learned counsel. The 2nd respondent has been duly served with the notice in this application. The acknowledgment card received from the 2nd respondent has also been enclosed along with the Affidavit of Service. Since the 2nd respondent has been duly served with the notice in this application, the 2nd respondent is set ex-parte by this Court.

3. There seems to be a dispute between the petitioners and the respondents arising out of the LLP Agreement, dated 15.12.2023 and the Supplementary LLP Agreement, dated 08.07.2024. The petitioners have invoked arbitration in accordance with the arbitration clause by issuing notice to the respondents as per the provisions of Section 21 of the Arbitration and Conciliation Act, 1996 on 07.12.2024. A reply has also been received from the respondents on 04.01.2025 to the said arbitration



invocation notice sent by the petitioners. As seen from the reply though the respondents have disputed the claim of the petitioners, they have admitted the existence of the arbitration clause in the LLP Agreement, dated 15.12.2023 and the Supplementary LLP Agreement, dated 08.07.2024. The arbitration clause contained in the LLP Agreement, dated 15.12.2023 is extracted is extracted hereunder :-

42. All disputes between the partners or between the Partner and BIGBAND IMAGE WORKS LLP arising out of the limited liability partnership agreement which cannot be resolved in terms of this agreement shall be referred for arbitration as per the provisions of the Arbitration and Conciliation Act, 1996 (26 of 1996).

The arbitration clause contained in the LLP Agreement dated 15.12.2023 has also been incorporated in the Supplementary LLP Agreement, dated 08.07.2024.

4. Both the learned counsels on instructions have made an endorsement in the Court bundle stating that the parties are agreeable for the appointment of Hon'ble Mr.Justice G.M. Akbar Ali (Retd.) as the sole Arbitrator to adjudicate the disputes between the parties arising out of the aforesaid agreements.



5. Since there exists an arbitration clause in the aforesaid Agreements, which are the subject matter of the dispute between the petitioners and the respondents and since the petitioners have complied with the statutory requirement by issuing notice to the respondents on 07.12.2024 as per the provisions of Section 21 of the Arbitration and Conciliation Act and since a consent has been given by both the learned counsels, this Court will have to appoint Hon'ble Mr. Justice G.M. Akbar Ali, Former Judge of Madras High Court as the sole Arbitrator to adjudicate the dispute between the parties.

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

a) This Court appoints Hon'ble Mr. Justice G.M. Akbar Ali, Former Judge of Madras High Court, residing at No.108/64, 2nd Floor, Catholic Centre, Armenian Street, Parrys, Chennai – 600 001, (Mobile No.9445025151) (Email : gmakbarali52@gmail.com) as the sole Arbitrator to adjudicate the dispute between the parties arising out of the LLP Agreement, dated 15.12.2023 and the Supplementary LLP Agreement, dated 08.07.2024.

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



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(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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Index: Yes/ No
Speaking order / Non speaking order
Neutral citation : Yes / No
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