



Arb. O.P. (Com. Div.) No. 168 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.07.2025

CORAM

THE HON'BLE Mr. JUSTICE ABDUL QUDDHOSE

Arb.O.P (Com.Div.) No. 168 of 2025

M/s.Paddysun Hospitality
Door No.134-4C, Tudors Place
Rajamannar Salai
K.K.Nagar, Chennai-600078

Represented by its Proprietor, Mr.Harish

... Petitioner

VS.

M/s.Kosmo One
Business Park Private Limited
Administrative Office, Tower-C
Plot No.14, Ground Floor
3rd Main Road, Ambattur
Chennai-600058.

... Respondent

Prayer : Arbitration Original Petition (Commercial Division) filed under Section 11(6) of the Arbitration and Conciliation Act, 1996, to appoint an Arbitrator to adjudicate the disputes between the petitioner and the respondent in terms of the Arbitration Agreement dated 30.11.2022 and direct the respondent to pay the costs.

For Petitioner : Mr.G.K.R.Pandian

For Respondent : Mr.Akhil Bhansali



ORDER

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2. There seems to be a dispute between the petitioner and the respondent arising out of the Business Operator Agreement, dated 30.11.2022. There exists an arbitration clause in the Business Operator Agreement, dated 30.11.2022 and the same is extracted hereunder :-

34. ARBITRATION

34.1 In the event of any dispute, controversy or claim arising out of or in connection with this Agreement and / or the transaction envisaged herein, including any questions regarding its existence, validity or termination ("Dispute") such Dispute shall be referred to a sole arbitrator to be appointed jointly by the Parties, and in the event of the Parties being unable to agree on the name of the sole arbitrator, to a sole arbitrator to be appointed in accordance with The Arbitration and Conciliation Act, 1996 ("Act"). The arbitration shall be conducted and in accordance with Act and the rules prescribed by the Act.

34.2 The seat and venue of the Arbitration shall be at place mentioned in Serial No.19 of Schedule A, India and the language of the arbitration shall be English. The



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Arb. O.P. (Com. Div.) No. 168 of 2025

Arbitrator's award shall be substantiated in writing. The Court of arbitration shall also decide on the costs of the arbitration procedure.

34.3 For the duration of the arbitration proceedings Owner shall be entitled, at its sole option, to call upon Operator to continue to run and operate the Permitted Business and to continue to fulfill all its obligations under this Agreement and Operator shall be obligated to do so. Such continuance by Operator of running and conducting of the Permitted Business shall be without prejudice to the rights and contentions of the Parties in the arbitration proceeding.

34.4 Immediately on initiation and / or an application to initiate the arbitration proceedings, Operator shall be liable and obligated to forthwith deposit an additional amount equivalent to 50% of the Performance Deposit with the Owner to additionally secure the Dues and outcome of the arbitration proceedings.

3. The petitioner has invoked arbitration in accordance with the arbitration clause by issuing notice to the respondent on 24.10.2024 to comply with the requirements of Section 21 of the Arbitration and Conciliation Act, 1996. A reply has also been received from the respondent, dated 22.11.2024. A rejoinder notice has also been sent by



Arb. O.P. (Com. Div.) No. 168 of 2025

the petitioner on 09.12.2024 to the same. Since there is no consensus between the parties with regard to the name of the Arbitrator, this petition has been filed under Section 11 of the Arbitration and Conciliation Act, 1996 seeking for appointment of an Arbitrator.

4. The learned counsel for the respondent on instructions would submit that even though objections have been raised in the counter filed by the respondent before this Court, he would be satisfied if liberty is granted to the respondent to raise those objections before the arbitrator who is to be appointed by this Court.

5. Since the respondent has stated no objection for appointment of an arbitrator by this Court, this Court is appointing an arbitrator.

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

- a) This Court appoints Mr.M.S.Sampath, Advocate, having office at Cypress C104, Adinath Shanthinikethan, Ramakrishna Street, Mannivakkam, Chennai – 600 048, Mobile



Arb. O.P. (Com. Div.) No. 168 of 2025

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No.98411-59996) is appointed as the sole Arbitrator to adjudicate the dispute between the parties arising out of the Business Operator Agreement dated 30.11.2022.

- (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.
- (e) Liberty is granted to the respondent to raise objections before the Arbitral Tribunal with regard to the arbitrability of the dispute either by filing an application under Section 16 of the Arbitration and Conciliation Act, 1996 or by filing a counter in the main Arbitral Proceedings.

09.07.2025

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Arb. O.P. (Com. Div.) No. 168 of 2025

ABDUL QUDDHOSE, J.

Maya

Arb.O.P (Com.Div.) No. 168 of 2025

Dated : 09.07.2025