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Arb.O.P. No.8 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.06.2025

CORAM

THE HONOURABLE MR JUSTICE ABDUL QUDDHOSE

Arb.O.P. No.8 of 2025

M/s.JKL Builder,
rep. by its Sole Proprietor
Sumathi Tamil Selvam

.. Petitioner

VS

1.D.Sivakumar

2.Sageetha Sivakumar

.. Respondents

Prayer: Arbitration Original Petition filed under Section 11 of the Arbitration and Conciliation Act, 1996 to appoint an independent Sole Arbitrator to adjudicate the disputes between the petitioner and the respondents and direct the respondents to pay the costs of this petition.

For Petitioner : Mr.S.Dhakshnamoorthy

For Respondents : Mr.A.E.Ravichandran

ORDER

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



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2. There seems to be a dispute between the petitioner and the respondents arising out of the Construction Agreement dated 21.02.2022.

There exists an arbitration clause in the Construction Agreement dated 21.02.2022, which is extracted hereunder:

'13. Any dispute, difference, controversy or claim arising out of or in connection with or touching upon or relating to this Agreement shall be settled in the first instance amicably between the parties, failing which it shall be settled by Arbitration in accordance with the provisions of the Arbitration and Conciliation Act 1996 and/or any statutory modifications thereof by a Sole Arbitrator to be mutually appointed by the parties herein. The decision or award of the arbitral tribunal shall be final and binding on the parties. The language of the Arbitration proceedings shall be English and the venue of the Arbitration shall be Chennai.'

3. The petitioner has invoked arbitration in accordance with the arbitration clause by issuing notice to the respondents on 21.01.2025 to comply with the requirements of Section 21 of the Arbitration and Conciliation Act, 1996. No reply has been received for the same from the respondents.



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4. 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 seeking for appointment of an Arbitrator by this Court.

5. A counter has been filed by the respondents before this Court. In the counter, this Court finds that the respondents have raised objections with regard to the merits of the petitioner's claim. However, they have not disputed the existence of the arbitration clause contained in the Construction Agreement dated 21.02.2022, which is the subject matter of the dispute between the parties.

6. While deciding this petition under Section 11 of the Arbitration and Conciliation Act, now this Court will have to only see on a prima facie basis as to whether there exists an arbitration clause or not in the contract, which is the subject matter of the dispute between the parties. Admittedly, there exists an arbitration clause in the contract, which is the subject matter of the dispute between the petitioner and the respondents. The petitioner has



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complied with the requirements of Section 21 of the Arbitration and Conciliation Act, 1996 by issuing notice to the respondents on 21.01.2025 requesting the respondents to accept arbitration. No reply has been sent by the respondents for the same.

7.Learned counsel for the respondents during the course of his submissions also does not dispute the existence of the arbitration clause.

8.He would only submit that the bank, which has lent money to the respondents, has withheld the balance loan amount only on account of the non execution of the rectification deed by the petitioner. The said issue cannot be decided by this Court while deciding this petition under Section 11 of the Arbitration and Conciliation Act, 1996. All objections with regard to the merits of the petitioner's claim will have to be adjudicated only by the Arbitrator and not by this Court under Section 11 of the Arbitration and Conciliation Act.



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9.Since there exists an arbitration clause in the contract, which is the subject matter of the dispute between the petitioner and the respondents and since the petitioner has complied with the requirements of Section 21 of the Arbitration and Conciliation Act, 1996 and since there is no consensus between the parties with regard to the name of the Arbitrator, this Court has to necessarily appoint an Arbitrator as prayed for in this petition.

10.For the foregoing reasons, this Arbitration Original Petition is allowed by issuing the following directions:

(a)This Court appoints Mr.H.Siddarth, No.80, Hardevi Chambers, 3rd Floor. Pantheon Road, Egmore, Chennai - 600 008, Mobile No.98403 04108 as the Sole Arbitrator to adjudicate the dispute between the petitioner and the respondents, arising out of the Construction Agreement dated 21.02.2022, on merits and in accordance with law;

(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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vga

(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.

No costs.

17.06.2025

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