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Arb.O.P (Com.Div.) No.182 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.07.2025

CORAM

THE HONOURABLE MR JUSTICE ABDUL QUDDHOSE

Arb.O.P. (Com.Div.) No.182 of 2025

Rajkumar Theatres Private Limited
rep. By its Director
Mr.Rajkumar Sethupathy
level 7A, Capital Towers,
No.555, Anna Salai,
Teynampet, Chennai 600 018.

... Petitioner

VS

E.M.John
Proprietor
Reyona Rose Productions
37/2656/A3, Manthottathil Enclave
Metro Pillar No.432,
Palace Road, Edappally,
Ernakulam 682 024.

.. Respondent

Prayer: Arbitration Original Petition (Commercial Division) filed under Section 11(6) of the Arbitration and Conciliation Act, 1996 to appoint a Sole Arbitrator to resolve the disputes between the petitioner and respondent arising out of agreement dated 30.09.2024 in Arb.O.P.No. of 2025.



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For Petitioner : Mr.R.S.Raveendharan

For Respondent : Mr.S.Balasubramaniam

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. There seems to be a dispute between the petitioner and the respondent arising out of the agreement dated 30.09.2024. There exists an arbitration clause in the agreement dated 30.09.2024, which is extracted hereunder:

'13. In the event of any dispute the parties shall mutually nominate a Sole Arbitrator to decide such dispute in terms of the Arbitration and Conciliation Act, 1996. The venue of arbitration shall be Chennai.'

3. The petitioner has invoked arbitration in accordance with the arbitration clause by issuing notice to the respondent on 01.03.2025 to comply with the requirements of Section 21 of the Arbitration and Conciliation Act, 1996. No reply has been received for the same.



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4. Since there is no consensus between the parties with regard to the name of the Arbitrator, the petitioner has filed this petition under Section 11 of the Arbitration and Conciliation Act seeking for appointment of an Arbitrator by this Court. Sufficient time has been granted for the respondent to file counter in this petition. In fact the matter has been listed today under the caption 'for counter and dismissal'.

5. The learned counsel for the petitioner would also submit that the respondent has been watching this proceedings from day one. He would also submit that only after paper publication was effected to serve the notice on the respondent pursuant to the order passed by this Court, the respondent in order to delay the proceedings has entered appearance through the learned counsel. The same is disputed by the learned counsel for the respondent. However till date no counter has been filed by the respondent, despite papers have been served on the learned counsel for the respondent. When this Court posed a question to the learned counsel for the respondent as to whether the arbitration clause which is relied upon by the petitioner for the



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purpose of this Court to appoint an arbitrator is there or not, the learned counsel for the respondent submitted that he requires further time to get instructions. Having granted sufficient opportunity to file counter and having lost the opportunity to file the same, this Court cannot grant any further time to file counter and that too in petition filed under Section 11 of the Arbitration and Conciliation Act and on a prima facie consideration, this Court finds that there exists an arbitration clause in the agreement dated 30.09.2024 which is the subject matter of the dispute between the parties.

6. Since the petitioner has also complied with the requirements of Section 21 of the Arbitration and Conciliation Act, 1996 by issuing notice to the respondent on 01.03.2025 and the said notice having been returned as seen from the documents filed along with the petition 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.

7. For the foregoing reasons, this Arbitration Original Petition is



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allowed by issuing the following directions:

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(a) This Court appoints Mr. Justice N. Kirubakaran, Retired High Court Judge, having address at No.36, 2nd Cross Street, Rayala Nagar, Ramapuram, Chennai – 600 089 Mobile No.9445025454 e-mail (justice.n.kirubakaran@gmail.com) as the Sole Arbitrator to adjudicate the dispute between the petitioner and the respondent, arising out of the agreement dated 30.09.2024, on merits and in accordance with law;

(b) The Arbitrator shall be paid 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.

No costs.

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ABDUL QUDDHOSE, J.
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