



Arb O.P(COM.DIV.) No. 291 of 2025

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15-07-2025

CORAM

THE HONOURABLE MR JUSTICE ABDUL QUDDHOSE

Arb O.P(COM.DIV.) No. 291 of 2025

M/s Fabindia Limited

A Company incorporated under the provisions of
the Companies Act,1956,having its office at
Plot No.10, Local Shopping Complex,
Sector- B, Pocket-7, Vasant Kunj,
New Delhi 110070

Represented herein by its Authorized Signatory,
Mr.G.Balasubramani having office at
3rd Floor, 318/5, Old No.240, Avvai Shanmugam
Salai, Gopalapuram, Chennai-600086

Appellant(s)

Vs

M/s Express Infrastructure Private Limited

A Company incorporated under the provisions of
the Companies Act,1956, having office at
Express Avenue, Chamber-II, 4th Floor,
No.49-50, Whites Road, Royapettah,
Chennai-600014, Represented herein by its
Authorised signatory, Mr.V.L.Nanda Kishore

Respondent(s)



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WEB PRAYER

Petition filed under Section 11(6) of the Arbitration and Conciliation Act, 1996, to appoint the nominee Arbitrator as per Clause 36 of the Leave and Licence Agreement dated 28.07.2022 executed between the petitioner and Respondent to adjudicate the dispute between the parties.

For Appellant(s): Mr.G.Vivekanand

For Respondent(s): Ms M. Pavithra
for Mr. P.J. Rishikesh

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 following contracts:

a.Leave and Licence Agreement dated 24.02.2016.

b.Memorandum of Compromise dated 22.11.2024.

3.The petitioner has invoked arbitration in accordance with the arbitration clause contained in the Leave and Licence Agreement dated 24.02.2016. The



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arbitration clause contained in the Leave and Licence Agreement dated 24.02.2016 is re-produced hereunder:

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"36. DISPUTE RESOLUTION MECHANISM:

36.1. Any and/or all disputes or differences between the Parties arising from and out of this Agreement and Allied Agreement shall be first informed in writing to the other Party and shall be discussed so as to be settled amicably. In the event of any failure to resolve the disputes or differences amicably within 30 days from the date of notification in writing of the existence of the dispute / difference, such unresolved dispute / difference shall be settled through Arbitration. The arbitration proceedings shall be conducted in English. The venue of arbitration shall be at Chennai.

36.2. The Licensor and the Licensee agree that the dispute shall be settled through Arbitration by a sole Arbitrator to be appointed as follows:

36.2.1. Within 7 days of the expiry of the period mentioned in clause 36.1, the Licensor shall provide the Licensee with a list of three Retired High Court Judges whom it intends to be nominated as the Sole Arbitrator;

36.2.2. Within 10 days from the receipt of the above letter,



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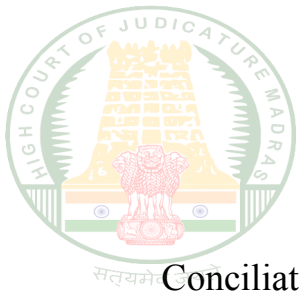
the Licensee shall choose one among the three Retired High Court Judges. Once the Licensee chooses a Retired High Court Judges from among the list provided by the Licensor, then he/she shall become the Sole Arbitrator,

36.2.3. However, if the Licensee fails to choose the Sole Arbitrator from among the list of three Retired High Court Judges within the period stated in clause 36.2.2, then the Licensor may nominate any of the three Retired High Court Judges as the Sole Arbitrator and the Licensee shall have no objection to the same.

36.3. The reference to the arbitration shall be without prejudice to the rights of the Licensor to recover any dues from the Licensee.

37. JURISDICTION & LAW APPLICABLE: This Leave and License Agreement including the Arbitration proceeding shall be interpreted as per Indian Laws and shall be subject to the exclusive jurisdiction of Chennai courts."

4.The petitioner has invoked arbitration in accordance with the arbitration clause contained in the contracts by issuing notice to the respondent on 02.04.2025 to comply with the requirements of Section 21 of the Arbitration and



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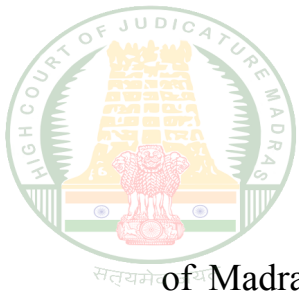
Conciliation Act, 1996. A reply has also been sent by the respondent on 11.04.2025 to the same.

5.The learned counsel for the respondent on instructions would submit that the respondent is agreeable for the appointment of an Arbitrator by this Court. However, he seeks liberty for the respondent to raise all objections before the arbitral tribunal either by filing an application under 16 of the Arbitration and Conciliation Act, 1996 or through the statement of defence filed to the arbitral claim to be made by the petitioner.

6.Since there exists an arbitration clause in the contracts, which are the subject matter of the dispute between the parties and since there is no consensus between the parties with regard to the name of the Arbitrator and since both the counsels on instructions have agreed that this Court can appoint an Arbitrator under Section 11 of the Arbitration and Conciliation Act, 1996, this Court has to necessarily appoint an Arbitrator as prayed for in this petition.

7.For the foregoing reasons, this Arbitration Original Petition is allowed as prayed for by issuing the following directions and there shall be no order as to costs :-

a) This Court appoints Hon'ble Mr.Justice D.Krishnakumar, former Judge



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of Madras High Court having address at No.13/7, 12th East Street, Kamaraj Nagar, Tiruvanmiyur, Chennai 600 041 (Mobile No.9445500225) as the sole Arbitrator to adjudicate the dispute between the parties arising out of the following contracts:

- i. Leave and Licence Agreement dated 24.02.2016.
- ii. Memorandum of Compromise dated 22.11.2024.

(b) The Arbitrator shall be paid his 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.

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Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

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Mr.V.L.Nanda Kishore, Authorised signatory
M/s Express Infrastructure Private Limited
A Company incorporated under the
provisions of the Companies Act, 1956,
having office at Express Avenue, Chamber-II,
4th Floor, No.49-50, Whites Road, Royapettah,
Chennai-600014.



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ABDUL QUDDHOSE J.

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