



Arb O.P(COM.DIV.)No.456 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.09.2025

CORAM

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

Arb O.P(COM.DIV.)No.456 of 2025

M/s.Sri Lakshmi Affordable Homes,
Rep., by its Managing Partner,
Mr.P.Elango,
Son of Mr.Periyamahalingam,
No.314 & 316/1, Vijahanagar 6th Main Road,
Velachery,
Chennai - 600 042.

.... Petitioner

Vs.

Mr.R.Mahendran

... Respondent

For Petitioner : Mr.C.Kasirajan
For Respondents : Mr.K.Ramaraj

ORDER

When the matter came up for hearing on 15.09.2025, this Court
passed the following order:

*"This petition has been filed under Section 11(6)
of the Arbitration and Conciliation Act, 1996 for
appointment of arbitrator to resolve the dispute arising out
of the Joint Development Agreement dated 06.09.2023.*



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2. *The case of the petitioner is that they are a registered partnership firm doing the business of promotion and development of properties. The respondent is the absolute owner of the schedule property and the respondent approached the petitioner for promoting and developing the subject property. Accordingly, the parties entered into a Joint Development Agreement dated 06.09.2023. As per this joint development agreement, the respondent offered to sell 40,851 square feet of undivided share to the petitioner and retained the remaining 4090 square feet of UDS. In exchange for the same, the petitioner undertook to construct and provide an extent of 9000 square feet of constructed area out of the total proposed construction. It was further agreed that after obtaining the plan approval, they will enter into a supplementary agreement for determining the other terms and conditions.*

3. *The petitioner agreed to pay to the respondent non-refundable amount of Rs.15,00,00,000/- and a total of Rs.10,00,000/- was paid as advance. The further case of the petitioner is that they were always ready and willing to perform their part of the contract and they had made ready the demand drafts for a sum of Rs.4,50,00,000/- during March, 2024. However, the respondent did not respond and therefore the petitioner was forced to cancel all the demand drafts. The petitioner once again approached the respondent in the month of April, 2024 by drawing several demand drafts to a total sum of Rs.3,20,00,000/-. Once*



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again there was no response from the respondent. At this point of time, the petitioner came to understand that the respondent is trying to sell the subject property to some other third party.

4. The petitioner also filed an application in O.A.No.345 of 2025 under Section 9 of the Arbitration and Conciliation Act seeking for an order of interim injunction against the respondent. This application came to be disposed of by an order dated 11.06.2025 in the following terms:-

“The mediation has failed as seen from the mediation report submitted by the Mediation Centre attached to this Court. Prior to referring this matter to mediation, this Court had recorded the undertaking given by the learned counsel for the respondent on instructions that the respondent is not proposing to alienate / encumber the properties, since the properties have already been mortgaged with the financial institution.

2. The learned counsel for the applicant would submit that since the mediation has failed, the applicant will be filing an application under Section 11 of the Arbitration and Conciliation Act, 1996 before this Court seeking for appointment of an Arbitrator by this Court.

3. It is made clear that the undertaking given by the learned counsel for the respondent to this Court on 21.04.2025, on instructions that the respondent is not proposing to alienate the properties, since the properties have already been mortgaged with the financial institution shall continue only for another period of four weeks from the date of receipt of a copy of this order. No



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prejudice will also be caused to the respondent in view of the admitted fact that the properties, which are the subject matter of this application are already mortgaged with a financial institution. It is made clear that if at all the applicant is seeking for an order of interim injunction to restrain the respondent from alienating / encumbering the properties mentioned in the schedule to the Judges Summons, they shall seek the said relief only before the Arbitrator by filing an application under Section 17 of the Arbitration and Conciliation Act, 1996, once an Arbitral Tribunal is constituted. Liberty is also granted to the respondent to raise all objections before the Arbitrator.

4. This Court makes it clear that the undertaking given by the respondent that he is not proposing to alienate / encumber the properties shall continue for another period of four weeks from the date of receipt of a copy of this order.

5. With the aforesaid directions, this application is disposed of by granting liberty to the applicant to approach the Arbitrator once an Arbitrator has been appointed to file a similar application under Section 17 of the Arbitration and Conciliation Act, 1996 and liberty is also granted to the respondent to raise all objections before the Arbitrator as and when such an application has been filed by the applicant.”

6. Pursuant to the above order, the trigger notice dated 14.06.2025 came to be issued by the petitioner under Section 21 of the Arbitration and Conciliation Act for appointment of arbitrator. Thereafter, the present petition



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has been filed before this Court.

7. The respondent has filed a counter affidavit along with typedset of papers. The respondent has raised various factual disputes and according to the respondent, he has a counter claim against the petitioner. That apart, the respondent is not aware of the names of all the partners of the petitioner firm. Hence the respondent has opposed the present petition and has sought for the dismissal of this petition.

8. Heard both sides.

9. After the amendment of Section 11 of the Arbitration and Conciliation Act, all that the Court must see in a petition filed under Section 11 is regarding the existence of an arbitration clause, nothing more and nothing less. All the other disputes between the parties will have to be resolved only before the learned Arbitrator.

9. The respondent has raised certain factual disputes and has also sought for counter claim against the petitioner. The respondent is also seeking for particulars of the names of all the partners of the petitioner firm. These are issues which can be raised before the learned Arbitrator and it is not necessary for this Court to go into all the above issues. That apart, this Court while disposing of the application in O.A.No.345 of 2025 by order dated



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11.06.2025, has also given liberty to the parties to file application under Section 17 of the Arbitration and Conciliation Act seeking for interim relief. In view of the same, this Court deems it appropriate to appoint a sole Arbitrator in this case, in line with clause 26 of the Joint Development Agreement dated 06.09.2023.

10. Post this case under the caption 'for passing final orders, on 16.09.2025.'

8. Hence, this Court is inclined to to appoint a sole Arbitrator. Accordingly, ***Honourable Mr.Justice T.S.Sivagnanam (Retired C.J. of the Calcutta High Court), residing at No.12, II Main Road, Kottur Gardens, Kotturpuram, Chennai-600085 (Mobile No. 9445373838)*** is appointed as the sole Arbitrator. The learned Arbitrator is requested to enter upon a reference qua Joint Development Agreement dated 06.09.2023 to adjudicate the arbitral dispute that were arising between the parties by holding the sittings in any venue at Chennai to the convenience of all concerned and render an award. The fees of the learned Arbitrator shall be in accordance with the Madras High Court Arbitration Centre (MHCAC)(Administrative Cost and Arbitrator's Fees) Rules 2017.

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N.ANAND VENKATESH, J.

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