



Arb. O.P. (Com. Div.) No.394 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.03.2025

CORAM

THE HON'BLE Mr. JUSTICE ABDUL QUDDHOSE

Arb.O.P (Com.Div.) No.394 of 2024

M/s.Champion Textiles Ltd.,
Rep. by its Executive Director,
V.R.S. Natarajan

...

Petitioner

vs.

1. M/s.JMJ Housing Ltd.,
Rep. by its Director,
Wilson P. Thomas,
No.554 / B.S.S. Complex,
D.B. Road,
R.S. Puram,
Coimbatore – 641 002.

2. Wilson P. Thomas
Director,
M/s.JMJ Housing Ltd.,
No.554 / B.S.S. Complex,
D.B. Road,
R.S. Puram,
Coimbatore – 641 002.

3. P.D. Sijo
4. Reeni
5. M. Parthiban
6. Radha Govindarajan
7. Vignesh
8. Sathiyadev Unnikrishnan
9. Mangalam



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10. Parvathi

11. Revathi

12. Shanthi

13. Vivek

14. C. Prasanth

... Respondents

Prayer : Arbitration Original Petition (Commercial Division) filed under Section 11(5) of the Arbitration and Conciliation Act, 1996 seeking for the following reliefs :-

a) Appoint a retired Judge of Madras High Court as the sole arbitrator in accordance with the Joint Development agreement, dated 19.01.2022 to adjudicate upon the issue between all the parties, so as to sort out and settle the issues of disputes and differences as more detailed above amicably through the Arbitration Award.

b) Direct the respondents to pay the costs of the proceeding of arbitration until the arbitration award

c) pass such further or other suitable orders as this Court deems fit and proper in the circumstance of the case.

For Petitioner : Mr.K. Chandrasekar

For Respondents : Mr.M. Mohamed Riyaz for RR1 to 5

ORDER

This petition has been filed under Section 11 of the Arbitration and Conciliation Act, 1996, seeking for appointment of an arbitrator by this Court.

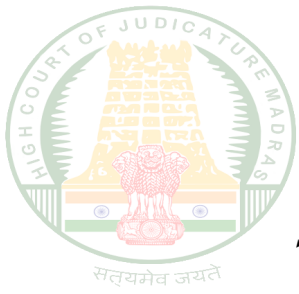


2. There seems to be a dispute between the petitioner and the 1st respondent arising out of the Joint Development Agreement, dated 19.01.2022. The said Joint Development Agreement, dated 19.01.2022 contains an arbitration clause and the same is extracted hereunder :-

24. DISPUTE RESOLUTION :

a) In the event of breach of any one or more of the terms of this agreement by either party, it shall be mutually discussed and settled amicably and if not settled for any reason, the aggrieved party shall be entitled to enforce through Arbitration Proceedings by way of appointment of a single Arbitrator not below the rank of Retired District Judge or the Retired High Court Judge and also be entitled to recover all losses and expenses incurred as a consequence of such breach from the party guilty of committing the breach on the basis of arbitration award. The arbitration award will be final and binding and no appeal or suit or any legal proceedings will be filed by either party to challenge the award. The place of arbitration shall be at Coimbatore.

b) The parties agree to use reasonable efforts to resolve all disputes equitably and in good faith. If any dispute arises between the parties herein on account of breach of terms of this agreement, the parties shall in the first instance endeavor to settle the same amicably in a spirit of co-operation. Under any circumstances, the LAND OWNER shall not take any step to stop the construction work of the Houses over the



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SCHEDULE property, since it involves huge investment and also interest of third parties. In case the developer violates or deviates the construction from the approved building plan, then the LAND OWNER shall request the developer in writing to rectify the mistake and in failure thereto have to stop the work.

3. The petitioner had invoked arbitration in accordance with the arbitration clause by issuing a notice to the respondents as per the provisions of Section 21 of the Arbitration and Conciliation Act, 1996 on 24.06.2024. The petitioner had earlier filed a suit in O.S. No.73 of 2023 before the District Munsif Court, Sullur pertaining to the very same subject matter. In the said suit, the 1st respondent expressed its willingness to go for arbitration in accordance with the arbitration clause contained in the Joint Development Agreement, dated 19.01.2022. When this petition came up for hearing on 06.03.2025, the learned counsel for the petitioner gave an undertaking on instructions that the petitioner shall withdraw the suit O.S. No.73 of 2023 and proceed with arbitration. In compliance with the said undertaking, the petitioner has withdrawn O.S. No.73 of 2023 as seen from the order dated 31.01.2024 passed in I.A. No.9 of 2024 in O.S. No.73 of 2023. Similarly the



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petitioner's other suits O.S. C.F.R No.2735 of 2024 has been rejected by

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orders of the learned Principal District Court, Coimbatore, dated 12.03.2024. The learned counsel for the petitioner on instructions would also submit that the petitioner shall not prosecute any further in O.S. C.F.R. No.2735 of 2024, which was rejected by the learned Principal District Court, Coimbatore. The petitioner has given an unconditional undertaking before this Court through the learned counsel for the petitioner that only through the arbitration, by an arbitrator appointed by this Court any reliefs will be sought for by the petitioner against the respondents. Since the respondents have already agreed to go for arbitration in O.S. No.73 of 2023 and since there exists an arbitration clause in the Joint Development Agreement, dated 19.01.2022, which is the subject matter of the dispute and since the petitioner has complied with the statutory requirement by issuing notice to the respondent on 24.06.2024 as per the provisions of Section 21 of the Arbitration and Conciliation Act, this Court will have to necessarily appoint an arbitrator under Section 11 of the Arbitration and Conciliation Act, 1996.



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4. Both the learned counsels on instructions would submit that the venue of the arbitration though fixed under the arbitration clause is at Coimbatore, the venue can be changed by the arbitrator, according to his convenience.

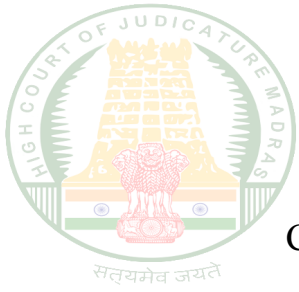
5. For the foregoing reasons, this Arbitration Original Petition is allowed as prayed for by issuing the following directions :-

a) This Court appoints Hon'ble Mr.Justice T. Ravindran, former Judge of Madras High Court, residing at New No.27, Old No.12, 3rd Avenue, Indira Nagar, Adyar, Chennai – 600 020 (Mobile No.9941350926) as the sole Arbitrator to adjudicate the dispute between the parties arising out of the Joint Development Agreement, dated 19.01.2022.

(b) The Arbitrator shall be paid his remuneration / fees in accordance with the 4th schedule of the Arbitration and Conciliation Act, 1996 or by mutual consent of both the parties.

(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



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Conciliation Act, 1996 and shall complete the arbitration within the specified time as prescribed under the said Act.

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(e) The venue of the arbitration shall be at the convenience of the Arbitrator.

13.03.2025

Index: Yes/ No
Speaking order / Non speaking order
Neutral citation : Yes / No
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ABDUL QUDDHOSE, J.

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