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Arb.O.P.(Com. Div.) No.350 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **05.02.2025**

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THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

**Arb.O.P.(Com. Div.) No.350 of 2024
and
O.A.Nos.36 and 37 of 2024**

G. Ramalingam		... Petitioner
	Vs.	
A. Kothandaramiah		... Respondent

PRAYER: Petition filed under Section 11 of the Arbitration and Conciliation Act, 1996 to appoint a sole arbitrator to adjudicate the dispute between the petitioner and the respondent and to direct the respondent to pay the cost.

For Petitioner : Mr.K.P. Sanjeev Kumar

For Respondent : Mr. C. Ramesh

ORDER

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

2. The petitioner has entered into an agreement with the respondent dated 02.12.2018. The petitioner claims to be the producer of the feature



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film by name "AAYIRAM PORKAASUGAL". According to the petitioner, under the agreement dated 02.12.2018, he sold the copyright in respect of his film in favour of the respondent. According to the petitioner, certain sums of money are still due and payable by the respondent to the petitioner as per the terms and conditions of the agreement dated 02.12.2018. The petitioner has, therefore, raised a dispute under the agreement dated 02.12.2018 and had also issued notice under Section 21 of the Arbitration and Conciliation Act to the respondent on 11.03.2024, calling upon the respondent to agree for arbitration as per the arbitration clause contained in the agreement dated 02.12.2018. A reply has been sent by the respondent's counsel on 09.04.2024, denying the contention of the petitioner and not agreeing for arbitration. The respondent has also stated that subsequent to the agreement dated 02.12.2018, there was a conciliation between the parties and the petitioner has agreed for settlement as per the settlement letter dated 28.12.2020.

3. Since there was no consensus between the parties for appointing an 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.

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4. The learned counsel for the petitioner would reiterate that the petitioner never agreed for settlement as pleaded by the respondent in the counter. He would also submit that the parties did not conciliate as per the statutory provisions of the Arbitration and Conciliation Act and therefore, the petitioner is not bound by the settlement letter if at all he has signed the same. However, the learned counsel for the respondent would reiterate that since the petitioner has signed the settlement letter and has agreed to the terms and conditions of settlement as contained in the settlement letter, the arbitration clause contained in the agreement dated 02.12.2018 no longer holds good.

5. While deciding an application under Section 11 of the Arbitration and Conciliation Act, it is settled law that once this Court is *prima facie* satisfied that there exists an arbitration clause in the subject matter of the dispute raised by the petitioner, this Court will have to necessarily appoint an arbitrator. If at all the respondent has any objection as contended by him before this Court through his counter, he will have to raise the same before



the arbitrator by filing an application under Section 16 of the Arbitration and Conciliation Act. At the Section 11 stage, the respondent's contention before this Court as pleaded in the counter cannot be looked into by this Court when the petitioner is disputing the same.

6. Admittedly, there exists an arbitration clause in the contract dated 02.12.2018, which is the subject matter of dispute between the petitioner and the respondent. The arbitration clause is extracted hereunder:

"ARBITRATION, GOVERNING LAW

Any claim, controversy or dispute arising out of or in connection with this Agreement shall be referred to arbitration to a sole arbitrator jointly appointed by the Parties under the Indian Arbitration and Conciliation Act, 1996. The arbitration proceedings shall be conducted in Chennai, India and shall be governed by and construed in accordance with the laws of India. The language of the arbitration shall be English. The arbitrator may in his award, require any Party to pay such costs as the arbitrator thinks fit, including the



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costs and expenses of the arbitration, travel, costs and advocates fees."

7. The petitioner has complied with the statutory requirements of the Arbitration and Conciliation Act by issuing notice under Section 21 of the Arbitration and Conciliation Act prior to the filing of this petition. A reply has also been received from the respondent to the said notice. Since the petitioner has satisfied the statutory requirements and there exists an arbitration clause in the contract dated 02.12.2018, which is the subject matter of dispute between the parties, this Court necessarily will have to appoint an arbitrator since there is no consensus between the parties with regard to the name of the arbitrator.

8. Accordingly, this Arbitration Original Petition is allowed as prayed for by issuing the following directions:

(a) Mr.Arun Karthik Mohan, Advocate , who is having office at No.161/1, Kanakashree Apartments, 1st Floor, V.M.Street, Jagadambal Colony, 2nd Street, Royapettah, Chennai - 600 014 (Mobile No.8754463801) is appointed as the sole Arbitrator to decide the dispute between the petitioner and the respondent arising out of the agreement dated 02.12.2018.



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ABDUL QUDDHOSE. J.,

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(b) The Arbitrator shall be paid his / 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.

9. Since this Court has appointed an arbitrator, the parties are at liberty to approach the arbitral Tribunal if they deem it fit to seek for interim reliefs under Section 17 of the Arbitration and Conciliation Act. In view of the said observations, O.A.Nos.36 and 37 of 2024 are closed.

05.02.2025

Index : Yes/No
Speaking Order : Yes / No
Neutral Citation Case: Yes / No
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