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Arb.O.P.(Com.Divn.) No.505 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.10.2025

CORAM

THE HONOURABLE Mr. JUSTICE N. ANAND VENKATESH

Arb.O.P.(Com.Divn.) No.505 of 2025

M/s.Infinity Info Services
Partnership Firm as Partners
1.L.Xavier
2.R.Anusha
Having Office at 32/1, Akbarabath
First Street, Kodambakkam
Chennai – 600 024.

.... Petitioner

Vs

1.D.Sashi Kumar
Zonal Head – Health Vertical
M/s.Bajaj Allianz General Insurance Company
No.497 & 498, 5th Floor
Isana Kattima Building
Poonamallee High Road
Arumbakkam, Chennai – 600 106.

2.M/s.Bajaji Allianz General Insurance Company
Bajaj Allianz House
Airport Road, Yerwada
Pune – 411 006.

..... Respondents

Prayer : Application filed under Section 11(6) of the Arbitration and Conciliation Act, 1996, praying to appoint the Arbitrator and fix the venue of arbitration at Chennai with regard to the dispute between the applicant firm and



respondent vide Ref.No.NIL M.O.U. for infrastructure facilities dated 5.9.2019 at undersigned in the office of the first respondent to resolve the claims mentioned in this petition and pass orders.

For Applicant : Mr.P.Srinivasan

For Respondents : Mr.K.Vijaya Ragavan

ORDER

This petition has been filed under Section 11(6) of the Arbitration and Conciliation Act, 1996 [for brevity hereinafter referred to as the “Act”] for appointment of an Arbitrator and to fix the venue of arbitration at Chennai.

2. When the matter came up for hearing on 25.08.2025, this Court passed the following order:

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

2. There seems to be a dispute between the petitioner and the respondents, arising out of the Memorandum of Understanding dated 05.09.2019. There exists an arbitration clause in the Memorandum of Understanding dated 05.09.2019 and the same is reproduced hereunder:



“19) Arbitration

In the event of any dispute or differences arising between BJAZ and the Facilities Provider hereto out of or on in relation to this Agreement, they shall resolve the same by negotiations. In the event that no resolutions are reached by negotiation, then within 90 days from the date of dispute, the same shall be referred to arbitration panel of sole arbitrator to be appointed with mutual consent of both parties. The award passed by them shall be final and binding on both the parties. All provisions of the Arbitration and Conciliation Act, 1996 and any statutory modifications thereof for the time being in force shall apply accordingly. The arbitration shall be conducted in English and seat of arbitration shall be at Pune. If within 30 days from sending notice by a party to other party, requesting for arbitration, both parties do not come to mutual consent as to sole arbitrator then both parties will have right to appoint one arbitrator each and such appointed two arbitrators will jointly with mutual consent will appoint a third arbitrator who will be chairman and preside over the arbitral tribunal. Provided further if the other Party do not respond to the notice of a Party and or if the other Party do not appoint any arbitrator to enable both the parties to have sole arbitrator upon mutual consent or to appoint one arbitrator each, then at the option of the Party sending notice to other Party, this arbitration clause and or arbitration contract shall be deemed to have been abandoned and or waived by other Party even if there is no specific



writing/letter of other Party waiving the arbitration clause and accordingly the Party serving notice of arbitration shall, as per its decision, may either enforce this arbitration clause in a suitable court of law or in the alternative treat this arbitration as waived/abandoned by both parties thereby relegated to regular civil courts jurisdiction as per clause 16 hereinbefore.”

3. The petitioner has invoked arbitration in accordance with the arbitration clause by issuing notice to the respondents on 11.07.2024 to comply with the requirements of Section 21 of the Arbitration and Conciliation Act, 1996. The respondents have sent a reply on 01.08.2024 to the arbitration invocation notice dated 11.07.2024, but, they have chosen not to agree for arbitration.

4. Since there exists an arbitration clause in the contract, which is the subject matter of the dispute between the parties and since the petitioner has invoked arbitration in accordance with the arbitration clause by complying with the requirements of Section 21 of the Arbitration and Conciliation Act, 1996 and since there is no consensus between the parties with regard to the name of the arbitrator, this Court is issuing notice to the respondents, returnable by 22.09.2025. Private notice is also permitted.

5. Post the matter on 22.09.2025.”



3. Pursuant to the above order, notice was served on the respondents and the respondents have entered appearance.

4. Heard Mr.P.Srinivasan, learned counsel appearing on behalf of the petitioner and Mr.K.Vijayaragavan, learned counsel appearing on behalf of the respondents 1 and 2.

5. The learned counsel for the respondents has brought to the notice of this Court, Clause 16 and 19 of the Agreement and submitted that both in terms of the jurisdiction of the Court as well as the seat of arbitration, it has been agreed between the parties that it will be only at Pune. In view of the same, it is submitted that the present petition filed before this Court is not maintainable.

6. The learned counsel for the petitioner submitted that the agreement was signed in Chennai and the parties are within the jurisdiction of this Court. Hence, the cause of action has arisen only in Chennai and there is not even a part of cause of action which has arisen at Pune. Therefore, the learned counsel submitted that the present petition is maintainable.



7. The issue involved in the present case is squarely covered by the judgment in ***Brahmani River Pellets Limited Vs Kamachi Industries Limited*** reported in **(2020) 5 SCC 462**. The Apex Court dealt with the issue of seat and venue of arbitration in the judgment cited supra and has categorically held that the specification of the seat in the arbitration agreement will operate as exclusive jurisdiction clause. In the light of this judgment, the parties having agreed to have the seat of arbitration at Pune and also the exclusive jurisdiction of the Court is at Pune, the petitioner cannot maintain the present petition before this Court.

8. The learned counsel for the petitioner submitted that the agreement was more in the nature of unilateral agreement and the petitioner has absolute no say in the agreement.

9. The concept of cause of action will have no relevance when it comes to deciding the seat of arbitration. The seat of arbitration is determined by the parties based on the agreement entered into between them. The parties may belong to one place and they can decide to have the seat of arbitration at a different place. In such an event, they will be bound by the agreement. The



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only exception is where the parties inspite of deciding the seat of arbitration, thereafter consent for the venue of arbitration at a different place and in such an event, the venue of arbitration itself will become the seat of arbitration. The case in hand does not fall under that category.

10. In the light of the above discussion, the present petition is not maintainable. It is left open to the petitioner to work out the remedy before the concerned Court depending on the seat of arbitration as was agreed between the parties in the agreement.

11. This petition is disposed of in the above terms.

27-10-2025

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N. ANAND VENKATESH., J

ds

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