



Arbitration Original Petition (Com.Div.) No.496 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.12.2025

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Arbitration Original Petition (Com.Div.) No.496 of 2025

Esteem Land Shipping Private Ltd.,
represented by its CEO,
Mr.Munigovindarajan V.G.,
52, Rajaji Salai, Mahameru Complex,
Chennai – 600 001.

.... Petitioner

Vs.

1.Whiteline Projects,
Flat No.10/197H, West By Pass Road,
Chettikulan, Rahapuram,
Tirunelveli District – 627 120.

2.Mohan Mutha Translogistics Pvt. Ltd.,
“The Lattice”,
No.20, Waddels Road, Kilpauk,
Chennai – 600 010.

.... Respondents

Arbitration Original Petition (Com.Div.) filed under Section 11(5)
of the Arbitration and Conciliation Act, 1996, praying to appoint an



Arbitration Original Petition (Com.Div.) No.496 of 2025

Arbitrator to decide the disputes and differences between the petitioner and respondents in terms of Contract dated 03.01.2025.

For Petitioner : Mr.G.Rajesh
For Respondents : Ms.Deepthi Devi
for Mr.S.Vasudevan [R2]

ORDER

When this petition 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 Agreement dated 03.01.2025. There exists an arbitration clause in the Agreement dated 03.01.2025 and the same is reproduced hereunder:

“34.Dispute resolution (state (a), (b) or (c) of Cl.34, as agreed; if (c) agreed also state Place of Arbitration) (Cl.34) Clause 34 (C) to apply, arbitration in India.

(c) This Charter Party shall be governed by and construed in accordance with the laws of the place mutually agreed by the parties and any dispute arising out of or in connection with this Charter Party shall be referred to arbitration at a mutually agreed place, subject to the procedures applicable there.”



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Arbitration Original Petition (Com.Div.) No.496 of 2025

3. The petitioner has invoked arbitration in accordance with the arbitration clause by issuing notice to the respondents on 26.03.2025 to comply with the requirements of Section 21 of the Arbitration and Conciliation Act, 1996. The 2nd respondent has sent a reply on 04.04.2025 to the arbitration invocation notice sent by the petitioner. However, the 1st respondent has not sent any reply.

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.”

2. When this petition came up for hearing on 13.10.2025, this

Court passed the following order:

“The 2nd respondent is represented through counsel. The notice that was sent to the 1st respondent has been returned with an endorsement 'Addressee Left'.

2. In view of the above, the learned counsel for the petitioner shall serve the papers on the learned counsel appearing on behalf of the 2nd respondent. The learned counsel for the petitioner is also directed to effect notice on the 1st respondent through paper publication. The paper publication shall be effected in the Malai Murasu, Tirunelveli edition, on or before 29.10.2025 and notice shall be returnable by 10.11.2025.



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Arbitration Original Petition (Com.Div.) No.496 of 2025

3.Post on 10.11.2025.”

3. Pursuant to the above order, paper publication has been effected insofar as the first respondent is concerned. The service is complete and the name of the first respondent has also been printed in the cause list. The second respondent has filed a counter.

4. The second respondent has taken a stand that there is no privity of contract between the second respondent and the petitioner. The first respondent required the Tug and Barge to sail in the coastal waters between Chennai and Tuticorin. The first respondent also agreed to obtain special permission from D.G. Shipping for operation of the Tug and Barge in the coastal waters of India to suit their purposes in accordance with Clause 6(b) of the Charterparty dated 13.01.2025. The first respondent failed to obtain permission due to which they off-hired Tug and Barge and re-delivered the same to the second respondent on



10.02.2025. Thereafter, the first respondent issued a letter dated 11.02.2025 to the second respondent stating that the Tug and Barge were re-delivered to the second respondent since the first respondent could not obtain required permission from D.G. Shipping. The first respondent has also admitted that they are due and payable a sum of Rs.1,12,58,658.54 to the second respondent towards hire charges for the entire operation. The first respondent made a further request to second respondent to accept a sum of Rs.84,29,440/- as full and final settlement against the outstanding amount, which offer was also accepted by the second respondent.

5. The second respondent had taken a very clear stand that they are not even aware that the intended beneficiary of the charter with the first respondent was the petitioner and insofar as the second respondent is concerned, the first respondent has re-delivered the Tug and Barge and also settled the dues under the Charterparty dated 13.01.2025 and that the second respondent is not concerned with the dealings of the first



respondent with the petitioner or any other third parties.

6. In view of the above, the second respondent has taken a stand that the arbitration clause in the alleged Charterparty dated 03.01.2025 does not bind the second respondent since the second respondent is not a party to the agreement. Similarly, insofar as Charterparty dated 13.01.2025 is concerned, it was executed between the respondents 1 and 2 in which the petitioner is not a party. Therefore, the second respondent is resisting the appointment of an arbitrator insofar as the second respondent is concerned and has sought for the dismissal of this petition.

7. Heard Mr.G.Rajesh, learned counsel for petitioner and Ms.Deepthi Devi, learned counsel appearing for second respondent.

8. In the considered view of this Court, insofar as the Charterparty dated 03.01.2025 is concerned, which is the subject matter of the present petition, admittedly it is only the petitioner and the first respondent, who



are the parties. The second respondent is not a party to this agreement and the second respondent had an independent agreement with the first respondent *vide* Charterparty dated 13.01.2025. Therefore, there is no question of appointing an arbitrator insofar as the dispute raised by the petitioner as against the second respondent.

9. At the best, this Court can only take into consideration the Charterparty dated 03.01.2025 as between the petitioner and the first respondent which contains an arbitration clause. The first respondent, who has been served with notice, has not chosen to appear before the Court and agitate the case. Therefore, this Court is inclined to appoint a sole Arbitrator with respect to the Charterparty dated 03.01.2025 between the petitioner and the first respondent. Insofar as the second respondent is concerned, it is left open to the sole Arbitrator to take a decision as to whether the second respondent is a proper and necessary party in the arbitration proceedings. That issue cannot be gone into in this petition.



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Arbitration Original Petition (Com.Div.) No.496 of 2025

10. In the light of the above discussion, this Court appoints Mr.T.K.Bhaskar, Advocate, 'Capitale', 9th Floor, No.554/555, Anna Salai, Teynampet, Chennai – 600 018. [Mobile No.98400 77673], as the sole Arbitrator and the sole Arbitrator is requested to adjudicate the arbitral disputes that had arisen between the parties and render arbitral award by holding sittings in the 'Madras High Court Arbitration Centre under the aegis of this Court' (MHCAC) as per Madras High Court Arbitration Proceedings Rules 2017 and fee of Sole Arbitrator shall be in accordance with the Madras High Court Arbitration Centre (MHCAC) (Administrative Cost and Arbitrator's Fees) Rules 2017.

Accordingly, this petition is disposed of.

08.12.2025

NCC:yes/no

8/11



Arbitration Original Petition (Com.Div.) No.496 of 2025

N.ANAND VENKATESH, J.

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Arbitration Original Petition (Com.Div.) No.496 of 2025

Arbitration Original Petition (Com.Div.) No.496 of 2025



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Arbitration Original Petition (Com.Div.) No.496 of 2025

08.12.2025