



Arb O.P(COM.DIV.) NO. 498 of 2024

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19-02-2025

CORAM

THE HONOURABLE MR JUSTICE ABDUL QUDDHOSE

Arb O.P(COM.DIV.) No. 498 of 2024

K.V.Mohammed Kutty
KV House, Pullithara, Thennala PO,
Malappuram District,
Kerala-676508.

..Petitioner

Vs

M/s.Chettinad Cement Corporation Pvt Ltd
Represented by its Managing Director
Represented by its Managing Director,
Registered office, Rani Seethai hall Building, 603,
Anna Salai, Chennai-600006

Also at Corporate Office,

17/35, Meyyammai Building
Gandhi Nagar, II Main Road,
Adyar, Chennai-600020

..Respondent

Prayer : Arbitration Original Petition (Commercial Division) filed under Section 11(6) of the Arbitration and Conciliation Act, 1996 to appoint an Arbitrator to go into the dispute between the petitioner and the respondent in respect of Clearing & Forwarding Agency Agreement dated 20.04.2011

For Petitioner

: Mr.K. Suresh Babu

For Respondent

: Mr.M.S .Krishnan
Senior Counsel
assisted by Mr.T.Balaj



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ORDER

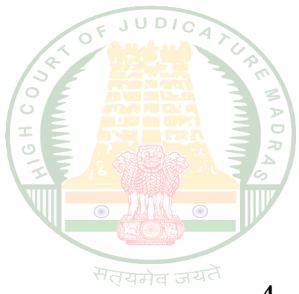
This petition has been filed under Section 11 of the the Arbitration and Conciliation Act, 1996, seeking for appointment of an Arbitrator by this Court.

2. The petitioner has entered into a Clearing and Forwarding Agency Agreement dated 20.04.2011 with the respondent. The petitioner has raised a dispute under the said contract. The said contract contains Arbitration clause which is extracted hereunder.

13. ARBITRATION:

Any dispute rising under or relating to this agreement shall be referred to arbitration, in accordance with Indian Arbitration and Conciliation Act, 1996 as amended or re-enacted, by reference to a sole Arbitrator. The venue of Arbitration shall be at Chennai only.

3. The petitioner has invoked the arbitration by issuing notice to the respondent as per the provisions of Section 21 of the Arbitration and Conciliation Act on 10.08.2024. Since there was no consensus between the parties for the appointment of 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 Senior Counsel appearing for the respondent would submit that it became necessary for the respondent to file a counter since the petitioner has raised several disputes arising out of various other agreements as well. He would submit on instructions that if the appointment of an Arbitrator is restricted to the disputes arising out of Clearing & Forwarding Agency Agreement dated 20.07.2011 alone, the respondent has no objection for appointment of an Arbitrator by this Court provided, they would be granted liberty to raise all objections with regard to limitation and other aspects before the Arbitrator.

5. Learned counsel for the petitioner also seeks liberty to raise all the contentions before the Arbitrator once an Arbitrator is appointed by this Court. No prejudice would be caused if such liberty is granted by this Court in this order.

6. Learned counsel for the petitioner also submits that the prayer sought for in this petition only pertains to the Clearing & Forwarding Agency Agreement dated 20.04.2011 entered into between the petitioner and the respondent and therefore, he would submit that the claim made by the petitioner against the respondent will be restricted only to the Clearing and Forwarding Agency Agreement dated 20.04.2011.

7. Since there exists an Arbitration Agreement between the parties in the Clearing & Forwarding Agency Agreement dated 20.04.2011 and since the



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petitioner has invoked the Arbitration by issuing a notice under Section 21 of the Arbitration and Conciliation Act and since there is no consensus between the parties for naming the Arbitrator, this Court has to necessarily appoint an Arbitrator under Section 11 of the Arbitration and Conciliation Act.

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

a) This Court appoints The Hon'ble Mr. Justice V.Parthiban, former Judge of Madras High Court, residing at No.5069, 12th Street, Z Block Anna Nagar, Chennai - 600 040 (Mobile 9444094401) as the sole Arbitrator to adjudicate the dispute between the parties arising out of the aforesaid Purchase Order.

(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.

19-02-2025

Index: Yes/ No

Speaking order / Non speaking order

Neutral citation : Yes / No



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ABDUL QUDDHOSE,J.

vsi

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