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Arb. O.P. (Com. Div.) No.496 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.02.2025

CORAM

THE HON'BLE Mr. JUSTICE ABDUL QUDDHOSE

Arb.O.P (Com.Div.) No.496 of 2024

KONE Elevator India Private Limited
Plot No.A28, Sipcot Industrial Park,
Sriperumbudur Taluk,
Kancheepuram District – 602 105,
Tamil Nadu,
Represented by its Authorized Representative

Also at
9th Floor, Prestige Centre Court Block,
Vijaya Forum Mall, No.183, NSK Salai,
Arcot Road, Vadapalani,
Chennai – 26, Tamil Nadu.

... Petitioner

vs.

V.Devendra Reddy

... Respondent

Prayer : Arbitration Original Petition (Commercial Division) filed under Section 11(6) of the Arbitration and Conciliation Act, 1996, to appoint Mr.Inbavijayan, having his address at G-2, Plot No.108, Majestic Colony, Valasarawakkam, Chennai – 600 087 (inbavijayan@gmail.com) or any other person as it deems fit as the Sole Arbitrator under section 11(6) of the Arbitration and Conciliation Act, 1996, as amended, to resolve the dispute and differences arising between the parties under or in connection with the contract dated 09.06.2017 bearing reference



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No.KEI/0014/201706/0006946712 and contract dated 07.06.2018 bearing reference No.KEI/0014/201805/0008039131 for supply, installation, testing and commissioning of elevators;

ii) Pass such further orders as this Court may deem fit and proper in the circumstances of the case.

For petitioner : Ms. Mahima Makhiya

ORDER

This petition has been filed under Section 11 of the Arbitration and Conciliation Act, 1996, seeking for appointment of Mr.Inbavijayan as an arbitrator to adjudicate the dispute between the petitioner and the respondent arising out of two contracts i.e., 09.06.2017 and 07.06.2018.

2. The petitioner claims that they have supplied elevators to the respondent under the aforementioned contracts, for which balance payments have to be made by the respondent to the petitioner. The contracts, both dated 09.06.2017 and 07.06.2018 contains an arbitration clause, which are extracted hereunder :-

Arbitration :

In the event of difference or dispute arising out or in connection with this agreement, over the rights or obligation of parties, the dispute



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would first be attempted to be resolved by consultations between the parties. Upon failure of such mutual consultations, the dispute or difference would be referred to Arbitration of a Sole Arbitrator, to be appointed by KONE and the provisions of the Arbitration and Conciliation Act, 1996 shall be applicable to such arbitration. For the purpose jurisdiction, the Courts in the City of Chennai shall have jurisdiction in relation to arbitration and any other remedy under the agreement.

3. Admittedly, as seen from the documents filed along with this petition, there has been no consensus with regard to the name of the arbitrator by the parties to the dispute. Only under those circumstances, the petitioner is constrained to file this application under Section 11 of the Arbitration and Conciliation Act. Since the aforesaid contracts contain an arbitration agreement between the parties, necessarily, this Court will have to appoint an arbitrator, though this Court need not appoint the named arbitrator as prayed for in this petition.

4. For the foregoing reasons, this Court appoints an arbitrator to decide the dispute between the parties arising out of the two contracts viz., dated 09.06.2017 and 07.06.2018 respectively entered into between



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the parties to the dispute. Accordingly, this Arbitration Original

Petition is allowed as prayed for by issuing the following directions :-

a) This Court appoints Mr.Advaidh Nelakanttan, the learned Advocate (Enrollment No.MS-3065 of 2019), who is having office at No.36, Kaaveri Villa, 1st Avenue, Indira Nagar, Adyar, Chennai – 600 020 (advaidh.nelakanttan@gmail.com), (Mobile No.9962023322) as a sole Arbitrator to adjudicate the dispute between the parties arising out of the aforesaid agreements.

(b) The Arbitrator shall be paid his 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.

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Index: Yes/ No

Speaking order / Non speaking order

Neutral citation : Yes / No

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