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Arb. O.P. (Com. Div.) No.500 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.02.2025

CORAM

THE HON'BLE Mr. JUSTICE ABDUL QUDDHOSE

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D. Rajendra Kothari
S/o.Deep Chand
No.18/2, 2nd Floor,
Lawyer Chinnathambi Street,
Kondithope, Chennai 600 001.

... Petitioner

VS.

M/s. Go Ware International
Represented by its Partner
Having its office at:
Survey No.34/1C, Plot No.79,
Kumar Rajan Nagar, Extension 1,
Vadaperumbakkam Village,
Madhavaram, Chennai 600 052.

2. Mr. Sajan Raj Baldota
S/o.Shri.Champalal Baldota
Prince Village Phase-1,
Flat No.402, Block B8,
No.31, Elaya Mudali Street,
Tondiarpet, Chennai - 600 081

3. Mr. Mahaveer Chand Baldota
S/o. Champalal Baldota
Prince Village Phase-1,
Flat No.403, Block B9,
No.31, Elaya Street,
Tondiarpet, Chennai - 600 081.



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4. Mr. Jitendra Kumar C. Jain
S/o. Champalal Baldota
Prince Village Phase-1, Block B1,
Flat No.305, No.33/8, Ellaya Street,
Tondiarpet, Chennai - 600 081

5. Mr. Naveenkumar
S/o.Late.Jalagopal No.7/R91, 18th Street,
Muthamizh Nagar, Kodungaiyur,
Chennai 600 018.

6. Mr. A Om Ranaa
S/o.Ashok Kumar
Flat No.402, 4th floor,
No.33, Elaya Mudali Street, A Block,
Prince Village-Phase 1, Tondiarpet,
Chennai - 600 081

...Respondents

Prayer : Arbitration Original Petition (Commercial Division) filed under Section 11(4) of the Arbitration and Conciliation Act, 1996 to resolve the dispute between the petitioner and the respondents that has arisen in terms of Partnership Agreement, dated 01.03.2022 in accordance with Section 11(4) of the Arbitration & Conciliation Act, 1996.

For petitioner	: Mr. V. Saranraj for M/s.Eswar Kumar & Rao
For Respondents	: Mr.Samir Kumar Shah for M/s.Shah & Shah for R1 to R3 Mr.Dilipkumar for R4



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ORDER

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2. There seems to be a dispute arising out of a Partnership Agreement, dated 01.03.2022 entered into between the petitioner and the respondents. The Partnership Agreement dated 01.03.2022 was also reconstituted under a Reconstituted Partnership Agreement, dated 01.04.2023. The petitioner has invoked arbitration in accordance with the arbitration clause contained in the Partnership Agreement, dated 01.03.2022. The arbitration clause contained in the Partnership Agreement, dated 01.03.2022 is extracted hereunder :

11. In case of any difference or dispute amongst the partners as regards a matter relating to the partnership, the same shall be referred to and decided according to the Indian Arbitration.

3. The petitioner has issued a notice to the respondents on 11.09.2024 as per Section 21 of the Arbitration and Conciliation Act, 1996 calling upon the respondents to accept for arbitration. A reply has also been sent by the respondents 2 and 3 on 10.10.2024 to the invocation notice. Since there is no consensus between the parties with



regard to the name of the arbitrator, the petitioner has been constrained to file this petition under Section 11 of the Arbitration and Conciliation Act seeking for appointment of an arbitrator by this Court.

4. Till date, counter has not been filed by the respondents. However, the learned counsel for the respondents 1,2 and 3 would submit that the arbitration clause which the petitioner relies upon is a vague one. Therefore, according to him, this Court cannot refer the dispute to the arbitration in accordance with the clause, which has been relied upon by the petitioner for the purpose of filing this petition under Section 11 of the Arbitration and Conciliation Act.

5. This Court while deciding an application under Section 11 of the Arbitration and Conciliation Act will have to only see the prima facie existence of an arbitration clause in the contract is the subject matter of the dispute between the parties. The arbitration clause as extracted supra states that in case of any difference or dispute amongst the partners as regards a matter relating to the partnership, the same shall be referred to and decided according to the Indian Arbitration. On a prima facie consideration of the said clause, this Court is of the considered view that there exists an arbitration clause in the contract, which is the subject



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matter of the dispute between the parties. Since there exists an arbitration clause in the contract, which is the subject matter of the dispute between the parties, necessarily this Court will have to appoint an arbitrator under Section 11 of the Arbitration and Conciliation Act as there has been no consensus between the parties for naming the arbitrator. Accordingly, this Court appoints Ms. Deepika Murali, Advocate as the sole arbitrator to adjudicate the dispute between the parties arising out of the Partnership Agreement, dated 01.03.2022. Liberty is also granted for the respondents to raise all objections with regard to the arbitration by filing an application under Section 16 of the Arbitration and Conciliation Act before the Arbitrator.

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

a) This Court appoints Ms. Deepika Murali, Advocate, who is having office at No.6, Crystal Cove, 93/59, MRC Nagar Main Road, MRC Nagar, Chennai, (Mobile No.9962030100) as the sole Arbitrator to adjudicate the dispute between the parties arising out of the aforesaid agreement.



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(b) The Arbitrator shall be paid 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.

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Index: Yes/ No
Speaking order / Non speaking order
Neutral citation : Yes / No
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