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Arb.O.P(Com.Div.) No.545 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated :22.01.2025

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THE HONOURABLE **MR.JUSTICE P.B.BALAJI**

Arb.O.P(Com.Div.) No.545 of 2024

M/s.Umesh Shipping Service Pvt. Ltd.,
Represented by its Director,
Mr.N.Rajkumar
S/o. K.Nambiraj,
No.79, Brayant Nagar, 12th Street,
Tuticorin – 628 008.

... Petitioner

VS.

M/s.Tamil Nadu Newsprint and Papers Limited,
Kagithapuram,
Karur District – 639 136.

... Respondent

PRAYER: Arbitration Original Petition filed under Sections 11(6) of the Arbitration and Conciliation Act, 1996, to appoint a Sole Arbitrator to resolve the dispute between the petitioner and the respondents as per Clause 21(b) of the work order dated 22.11.2011 bearing Work Order No.MM/SP/WO/80960/0/2011.

For Petitioner : Mr.A.Mohamed Ovaisullah Muhsin
for M/s.Hari Radhakrishnan

For Respondent : Mr.Shivakumar



ORDER

This Original Petition has been filed seeking appointment of a Sole Arbitrator under Section 11(6) of the Arbitration and Conciliation Act, 1996, to resolve the dispute between the petitioner and the respondents as per Clause 21(b) of the work order dated 22.11.2011 bearing Work Order No.MM/SP/WO/80960/0/2011.

2.I have heard Mr.A.Mohamed Ovaisullah Muhsin, learned counsel appearing for the petitioner and Mr.Shivakumar, learned counsel appearing for the respondent.

3.The learned counsel for the petitioner would invite my attention to the appointment of an Arbitrator with the consent of parties and that the Sole Arbitrator, according to the petitioner, misinterpreted the Schedule IV of the Act regarding the fees of the Arbitrator and that though both the petitioner and the respondent sought to clarify the same, it was not agreeable to the Arbitrator and consequently, the Sole Arbitrator has withdrawn his proceedings vide letter dated 16.09.2024. Subsequently, the petitioner has proposed a retired District Judge which was not agreeable to the respondent who in turn proposed the name of the another retired District Judge which is



not agreeable to the petitioner. As there has been no consensus the present

Original Petition has been filed.

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4. There is no dispute with regard to the existence of the work order dated 20.04.2011. The present Original Petition has been necessitated only as a result of the earlier Arbitrator withdrawing his proceedings by letter dated 16.09.2024. Though the learned counsel for the respondent has filed a counter affidavit, I find that the averments set out therein are more relating to the factual matrix and also with regard to the claim of the respondent being hopelessly barred by limitation. As long as there is existence of work order between the parties, this Court, being very limited, cannot go into the merits of the claim including the issue as to whether the claim is barred by law of limitation and such issues can always be raised before the Arbitrator under Section 16 of the Act.

5. In view of the above position, I hereby appoint **Mr.J.Krishnamoorthy, District Judge (Retd), B-2/D, Nutechkrishna, New D.No.37 (Old D.No.15), Soundararajan Street, T.Nagar, Chennai – 600 017, Phone No.9442092363**, as the Sole Arbitrator to go into the



disputes between the parties arising under the work order dated 22.11.2011
in Work Order No.MM / SP / WO / 80960 / 0 / 2011.

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6.The learned Arbitrator is entitled to fix his fees, strictly in terms of the Schedule-IV to the Act. This Court further requests the learned Arbitrator to endeavor to decide the dispute as expeditiously as possible, however, not later than nine (9) months from the date of his entering into reference. It shall be open to the respondent to file appropriate application under Section 16 raising an available issues which have been taken in the counter to the present Section 11 petition.

6. Accordingly, this Arbitration Original Petition is allowed.

22.01.2025

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Index : Yes / No

Internet : Yes / No

P.B.BALAJI, J.,

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