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Arb.O.P (Com.Div.) No.2 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.02.2025

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THE HON'BLE Mr. JUSTICE ABDUL QUDDHOSE

Arb.O.P (Com.Div.) No.2 of 2025

M/s.Hotel Jayapushpam Pvt. Ltd.,
rep. by its Managing Director
Mr.J.Ashok

... Petitioner

Versus

1.M/s.Salem Shri Krishnaa Construction Company P. Ltd.,
rep. by its Managing Director Prabhakaran

2.Prabhakaran

3.Manjulla Prabhakaran

4.Viswanathan Maaran

... Respondents

Prayer: Arbitration Original Petition (Commercial Division) filed under Section 11(5) of the Arbitration and Conciliation Act, 1996 to appoint an Arbitrator to appoint an Arbitrator to adjudicate the disputes between the petitioner and the respondents as per Clauses 12 & 13 of the Purchase Agreement dated 29.07.2024 and to direct the respondents to pay costs.



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For Petitioner : Ms.Varalakshmi

For Respondents : Mr.Aayeram K.Selvaraj

ORDER

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

2.The petitioner has entered into an agreement dated 29.07.2024 with the first respondent Company. The second and third respondents are the Directors of the first respondent Company. The agreement has been signed by the second respondent as a Managing Director of the first respondent Company. The third respondent, who is also the Director of the first respondent company, has signed as a witness in the agreement dated 29.07.2024. According to the petitioner, the fourth respondent is also bound by the arbitration clause.

3.There seems to be a dispute between the parties arising out of the agreement dated 29.07.2024. The petitioner claims that certain sums of



money are due and payable by the respondents under the agreement dated 29.07.2024. There exists an arbitration clause in the agreement dated 29.07.2024. Clause 13 is the Arbitration Agreement and the same is extracted hereunder:

'13.Any disputes shall be resolved amicably between parties. All unresolved disputes, differences, actions or litigation or claims arising out of this agreement or otherwise between the parties to the present agreement pending beyond a period of 45 days shall be finally referred to the sole arbitrator appointed by the parties. The arbitration shall be governed by the provisions of the Arbitration and Conciliation Act, 1996 or any statutory modifications/enactment made from time to time. The arbitrator's decision shall be final and binding on both the parties. The venue of arbitration shall be at Chennai. The medium of arbitration shall be in English'

4.The petitioner has sent a notice to the respondents on 01.10.2024 to satisfy the requirement of Section 21 of the Arbitration and Conciliation Act calling upon the respondents to agree for arbitration. Even though a reply has been sent by the second respondent, there has been no consensus between the parties with regard to the name of the Arbitrator. Under the



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aforementioned circumstances, this petition has been filed seeking for appointment of an Arbitrator by this Court.

5.Admittedly, there exists an arbitration clause in the contract, which is the subject matter of the dispute between the parties. The same has been extracted supra. Admittedly, there has been no consensus between the parties for naming the Arbitrator. 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. Learned counsel for the respondent has also not raised objection for appointment of an Arbitrator by this Court.

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

(a)This Court appoints Hon'ble Mr.Justice K.Kannan, Former Judge, having office at No.3/11, Lakshmi Colony, North Crescent Road, T.Nagar, Chennai - 600 017, Mobile No.9780008145 as the Sole Arbitrator to



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adjudicate the dispute between the petitioner and the respondents, arising out of the Purchase Agreement dated 29.07.2024, on merits and in accordance with law.

(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.

No costs.

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ABDUL QUDDHOSE, J.

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