



Arb.O.P.(Comm.Div.) No.562 of 2024

WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:19.12.2024

CORAM

THE HONOURABLE MR.JUSTICE P.B.BALAJI

Arb.O.P.(Comm.Div.) No.562 of 2024

and

OA. Nos.724 & 725 of 2023

M/s.The Bank of Baroda,
Rep by its Assistant General Manager,
Mr.M.B.Raju, Zonal Stressed Assets Recovery Branch,
Mehar Chambers, Ground Floor,
Dr.Sunderlal Belmarg,
Ballard Estate, Mumbai 400 001.
Also at No.13, Vaswani Chambers,
264/265, Dr. AB Road, Worli, Mumbai

... Petitioner

vs.

- 1.Tambaram City Municipal Corporation (Pallavapuram),
New Colony III Main Road, Chromepet,
Chennai – 600 044.
2. M/s.Pallavapuram Tambaram MSW Private Limited,
B-10, Essel House,
Lawrence Road, Industrial Area,
New Delhi -110 035.



Arb.O.P.(Comm.Div.) No.562 of 2024

WEB COPY

3.M/s.Essel Infra Projects Limited,
B-10, Essel House, Lawrence Road,
Industrial Area, New Delhi -110 035.

... Respondents

PRAYER: Arbitration Original Petition filed under Sections 11 (6) of the Arbitration and Conciliation Act, 1996 to appoint an Arbitrator for the purpose of adjudicating upon the disputes which has arisen between the Petitioner and respondent, pursuant to Substitution Agreement dated 26.09.2013.

For Petitioner : Mr.R.Prabhakaran

For Respondents : No Appearance.

ORDER

This Arbitration Original Petition has been filed under Section 11(6) of the Arbitration and Conciliation Act, 1996 (hereinafter called as 'the Act') to appoint an Arbitrator for the purpose of adjudicating upon the disputes which has arisen between the Petitioner and respondent, pursuant to Substitution Agreement dated 26.09.2013.



Arb.O.P.(Comm.Div.) No.562 of 2024

WEB COPY

2. I have heard Mr.R.Prabhakaran, learned counsel for the petitioner.

There is no appearance on the side of the respondents. Though Court notice remains unserved, private notice is served on the respondents and the names of all the respondents have been printed in the High Court daily cause-list today i.e., on 19.12.2024, there is no appearance on the side of the respondents. Therefore, the respondents are calls and set exparte.

3. I have proceeded to hear the learned counsel for the petitioner Mr.R.Prabhakaran and also perused the records.

4. The learned counsel for the petitioner would take me through the Substitution Agreement dated 26.09.2013, more specifically to the Arbitration Clause at 5.1(e) to evidence the existence of a written arbitration agreement.



Arb.O.P.(Comm.Div.) No.562 of 2024

WEB COPY

5. When disputes arose between the parties, the petitioner issued a Notice under Section 21 of the Act on 16.02.2023 to the respondents to make the payment of Termination Amount of Rs.80,33,21,773.88 as on 21.05.2022, alongwith further interest amount. Despite receipt of the same, the respondents failed to make the said payment and have also not replied to the said notice. Thereafter, the above Arbitration Original Petition has been filed.

6. The Agreement provides for an Arbitration Clause in 5.1.e and the petitioner has also rightly invoked Section 21 of the Arbitration and Conciliation Act, 1996 for issuance of notice to the respondents. Therefore, petitioner is entitled to seeking an appointment of sole arbitrator to adjudicate the disputes between the petitioner and the respondents in terms of the said Agreement.

7. In view of the foregoing discussions, I am inclined to appoint



Arb.O.P.(Comm.Div.) No.562 of 2024

WEB COPY

Hon'ble DR.JUSTICE.VINEET KOTHARI, Former Acting Chief Justice, Gujarat High Court, No.947, 11th D Road, Sardarpura, Jodhpur, Rajasthan -342 003, (Cell: 94808 22552, 291-2433947), E.mail ID: kotharivineet@gmail.com as the Sole Arbitrator. The sole Arbitrator is directed to enter upon reference and adjudicate the dispute in accordance with law. The learned counsel for the petitioner is directed to communicate the said appointment to the learned Arbitrator.

8. The learned Arbitrator is entitled to fix his fees as per 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 six (6) months from the date of his entering into reference.

9. Accordingly, this Arbitration Original Petition is allowed.



WEB COPY



Arb.O.P.(Comm.Div.) No.562 of 2024

P.B.BALAJI, J.,

10. Insofar as the Section 9 Applications pending in the above proceedings, the same shall be converted as Applications under Section 17 of the Act instead of moving fresh Application and the Arbitrator shall decide the same in accordance with law, after affording opportunity to both the parties. The interim order granted already on 13.08.2024 shall continue to be in force for a period of 12 weeks and the learned Arbitrator shall decide the same, in accordance with law.

19.12.2024

rkp

Index : Yes / No

Internet : Yes / No

Arb.O.P.(Comm.Div.) No.562 of 2024

and

OA. Nos.724 & 725 of 2023