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Arb.O.P.(Com. Div.) No.581 of 2024



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **15.04.2025**

CORAM

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

Arb.O.P.(Com. Div.) No.581 of 2024

Sunshine Teahouse Pvt. Ltd.

... Petitioner

Vs.

Bhuvaneshwari

... Respondent

PRAYER: Petition filed under Section 34 of the Arbitration and Conciliation Act, 1996 to set aside the arbitral award dated 17.09.2024 passed in the arbitration proceedings bearing Arb.O.P.(Com. Div.) No.422 of 2023 between the petitioner and the respondent and to direct the respondent to pay the cost of the present proceedings.

For Petitioner : Mr. Arun C. Mohan
Assisted by Mr.Advaidh Nelakanttan

For Respondent : Mr.T. I. Ramanathan

ORDER

A joint endorsement has been made by both the counsels, on instructions, that since the petitioner has satisfied the grounds required for setting aside the impugned arbitral award, the respondent is willing to go for



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fresh arbitration in accordance with the arbitration clause. However, the arbitration shall commence from the stage of arguments since the evidence was already recorded by the arbitrator who has passed the impugned arbitral award. In fact, this Court by its earlier order dated 25.03.2024 had recorded the submissions of both the counsels and after recording the same, this Court was of the *prima facie* view that the impugned arbitral award has to be set aside by this Court and the parties will have to go for fresh arbitration since the grounds for challenge under Section 34 of the Arbitration and Conciliation Act has been satisfied.

2. Learned counsel for the respondent has also obtained instructions that the respondent is willing to go for fresh arbitration from the stage of the arguments as the evidence was already recorded by the arbitrator, who has passed the impugned arbitral award. The learned counsel for the petitioner is also agreeable to the same. In view of the joint endorsement made by both the counsels, on instructions, and in view of the fact that the petitioner has satisfied the requirements of Section 34 of the Arbitration and Conciliation Act, this Court has to necessarily set aside the impugned arbitral award and direct the respondent to go for fresh arbitration. Both the counsels have also



given consent, on instructions, for appointment of an arbitrator by this

Court.

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3. The learned counsel for the petitioner has also agreed that the petitioner is willing to pay Rs.1,00,000/- to the arbitrator and the learned counsel for the respondent, on instructions, has also agreed that the respondent is willing to pay Rs.50,000/- to the arbitrator towards the arbitrator's fees. If at all there are any further expenses to be paid to the arbitrator, the learned counsel for the petitioner, on instructions, has also agreed that the petitioner is willing to bear the expenses payable to the arbitrator. In view of the joint endorsement made by both the counsels on instructions and consents having been given by them, on instructions, for appointing an arbitrator, the following order is passed:

a) The impugned arbitral award dated 17.09.2024 is hereby set aside and this petition is allowed and the parties are directed to go for fresh arbitration before Mr.P. Giridharan, Advocate having address at Vanguard House, 3rd Floor, No.48, Second Line Beach, Parrys, Chennai - 600 001 (Mob. No.98846 72733);

b) The sole arbitrator is appointed by this Court by consent of both



the counsels on instructions;

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c) The petitioner shall pay Rs.1,00,000/- to the said arbitrator and the respondent shall pay Rs.50,000/- to the said arbitrator. Any further expenses payable to the arbitrator shall be borne by the petitioner alone and not by the respondent and the same has also been agreed upon by the learned counsel for the petitioner, on instructions;

d) Mr.P. Giridharan, the sole arbitrator shall commence the arbitration from the arguments stage and shall pronounce the arbitral award based on the evidence, which has already been recorded by the arbitrator, who has passed the impugned arbitral award;

e) 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.

15.04.2025

Index : Yes/No
Speaking Order : Yes / No
Neutral Citation Case: Yes / No
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ABDUL QUDDHOSE. J.,

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