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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 09.01.2025
Pronounced on : 31.01.2025

CORAM

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

O.P.No.892 of 2018

Ms.Edwin Amudha
Partner M/s.S.Arumairaj
No.H-888, 22nd Street,
Anna Nagar West,
Chennai – 600 040

Now residing
Unit 5, No.141, Trower Road,
Alawa, Northern Territory 0810,
Australia.

... Petitioner

vs.

L.Subramaniam
Partner M/s.S.Arumairaj
No.15, Kasturi Rangan Road,
Alwarpet, Chennai – 18.

... Respondent

PRAYER: Arbitration Original Petition filed under Sections 11(4)(a) of the Arbitration and Conciliation Act, 1996, to appoint an presiding Arbitrator to resolve the disputes arising out of Partnership Agreement dated 15.03.2001 between the petitioner and the respondent.



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For Petitioner : Mr.R.Srinivas
Senior Counsel
for Mr.S.K.Chandrakumar

For Respondent : R.Saravanakumar

ORDER

This Original Petition under Section 11(4)(a) of the Arbitration and Conciliation Act, 1996, is filed by Edwin Amudha, partner of M/s.S.Arumairaj seeking appointment of an Arbitrator to resolve the disputes arising out of Partnership Agreement dated 15.03.2001, wherein the respondent is a non family partner having been inducted by the husband of the applicant to complete the execution of the Government contract.

2.I have heard Mr.R.Srinivas, learned Senior Counsel for Mr.S.K.Chandrakumar, learned counsel for the petitioner and Mr.R.Saravanakumar, learned counsel for the respondent.

3.According to the petitioner, the respondent has been acting unilaterally without the applicant's knowledge and consent when admittedly the petitioner is the partner in the firm and the firm itself having been



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constituted by her husband, S.Arumairaj. The petitioner has sent a letter on 03.11.2015 nominating an Arbitrator in terms of the agreement viz., clause 18 providing for dissolution of the disputes by reference to arbitration. In view of the evasive reply given by the respondent, the petitioner has filed the present original petition.

4.The respondent has filed a counter affidavit stating that there is no dispute amongst the partners and the respondent acted only in terms of clause 12 of the Partnership Deed empowering him to represent the firm. Further, the respondent has stated that he is only representing the firm, including the interest of the petitioner and has categorically admitted that the petitioner being a partner is entitled to get her share.

5.In view of the above, there being no dispute, I do not find any necessity to appoint an Arbitrator at this juncture. However, in future, in the event of the award being complied by the Superintending Engineer, Highways, Construction and Maintenance, Chennai Circle, Chennai than the sharing of the amounts amongst the partners in terms of the Partnership Deed would probably arise only at that point of time. The partners are



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governed by the terms of the Partnership Deed and at that juncture, if there is any dispute warranting invocation of arbitration, it would be open to the petitioner to seek reference to arbitration. At this juncture, I find that the present Original Petition is premature.

6.Considering the above, giving liberty to the petitioner to move an application for appointment of a Sole Arbitrator, if warranted at a later point of time, the present Original Petition is dismissed.

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Index : Yes / No

Internet : Yes / No



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P.B.BALAJI, J.,
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