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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06-08-2026

CORAM

THE HON'BLE MR.JUSTICE K.KUMARESH BABU

Arb O.P(COM.DIV.) No. 203 of 2026

M/s.KAY ARR and Company
Proprietorship of Mr.K.Ramesh,
GSTIN 33AFAPR1455B1Z0 having its
Head Office at No.B-302, Kay Arr Triumph Tower,
5/2, Eagle Street, Lang Ford Town,
Bangalore - 560 025

..Petitioner

Vs

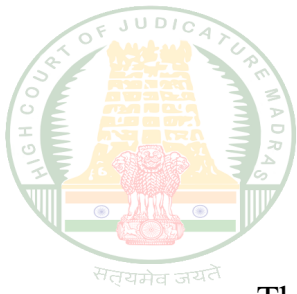
1. Suresh Kumar D.Kochar
S/o.Dhanraj N.Kochar,
2. Ramesh Kumar D.Kochar
3. Rajkumari
W/o.Mr.Ramesh Kumar D.Kochar,
4. Anita
W/o.Mr.Suresh Kumar D.Kochar,

..Respondents

Arbitration Original Petition filed under Section 11(6) of the Arbitration and Conciliation Act, 1996, to appoint an arbitrator to adjudicate the disputes between the Petitioner and the Respondents in terms of the Arbitration Agreement contained in Agreement For Development and Sale dated 05.11.2014 and to direct the Respondents to pay costs.

For Petitioner : Mr.Thomas T Jacob

For Respondents : Mr. P.J.Rishikesh



ORDER

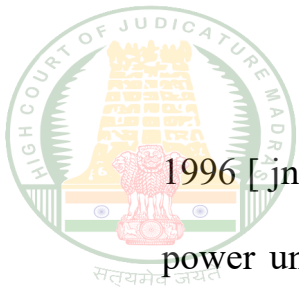
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This Arbitration Original Petition has been filed to appoint an arbitrator to adjudicate the disputes between the Petitioner and the Respondents in terms of the Arbitration Agreement contained in Agreement For Development and Sale dated 05.11.2014

2. Heard the learned counsel for the petitioner.

3. The learned counsel appearing for the respondent had vehemently contested the original petition primarily on the ground that the entire cause of action for initiation of the arbitration proceedings is a deadwood and had relied upon the judgment of the Hon'ble Apex Court in the case of *M/s.Arif Azim Co.Ltd Vs. M/s.Aptech Ltd [2024 INSC 155]* and also the judgment of this Court made in *M/s.Lanco Horizon Properties Private Limited Vs. Inderchand D Kochar & Ors. [Arb.O.P(Com.Div) No.384 of 2024]*

4. The learned counsel appearing for the petitioner had relied upon the judgment made by the Hon'ble Apex Court in the case of *SBI General Insurance Co.Ltd Vs. Krish Spinning [Civil Appeal No.7821 of 2024]*, and had contended that this judgment had clarified the position in *Arif Azim (cited supra)* by bifurcating the limitation that has to be considered by the Court while exercising its power under Section 11 of the Arbitration and Conciliation Act,

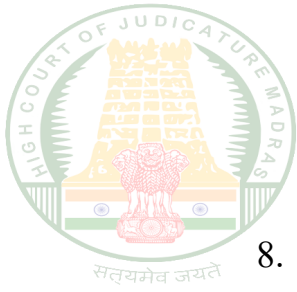


1996 [In short, 'the Act']. He would submit that this Court while exercising its power under Section 11 would have to only evaluate the period of limitation from the date of issuance of Section 21 notice alone and the limitation on the subject matter of the dispute would have to be left to the consideration of the Arbitrator so to be appointed. Hence, he would further submit that even though an agreement was originally in the year 2014, in the year 2018, a supplementary agreement had been entered upon and further negotiation between the parties had enlarge the period of limitation, hence, he seeks for appointment of an Arbitrator.

5. I have considered the submissions made on either side.

6. As rightly pointed out by the learned counsel for the petitioner that in a subsequent judgment in the case of ***SBI General (cited supra)***, the Hon'ble Apex Court had clarified the issue of limitation which has to be considered by the Court while exercising its power under Section 11 of the Act. The judgments relied upon by the learned counsel for the respondent, one of which was authored by me was made without taking note of the judgment in ***SBI General***.

7. This Court also is of the view that the period of limitation dispute could be subject matter of Arbitration and it is always open to the respondent to raise the same as a preliminary issue.



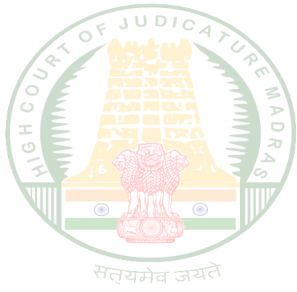
8. With the aforesaid liberty, Mr.E.Om Prakash, Senior Advocate (Mob.No.94440 45745), having office at No.321, Old No.155, 2nd Floor, Thambu Chetty Street, (Opposite to High Court), Chennai – 600 001, is appointed as the Sole Arbitrator to enter upon the reference and resolve the disputes between the petitioner and the respondents.

9. The learned Sole Arbitrator is entitled to fix his fees as per the Schedule-IV of the Act. This Court further requests the learned Sole Arbitrator to endeavour to decide the dispute as expeditiously as possible, however, not later than six(6) months from the date of his entering into reference.

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Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

mp



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K.KUMARESH BABU J.

mp

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