



Arb.O.P (Com.Div.) No.7 of 2025 and O.A. Nos.869 & 870 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

DATED: 20.02.2025

CORAM

THE HON'BLE Mr. JUSTICE ABDUL QUDDHOSE

Arb.O.P (Com.Div.) No.7 of 2025 and O.A. Nos.869 & 870 of 2024

1.M/s.Ananya Krishnaa Constructions Private Limited,
rep. by its Managing Director Mr.Y.Gangadhar

2.M/s.Anjana Krishna Constructions Private Ltd.,
rep. by its Managing Director Mr.Y.Gangadhar

.. Petitioners

Versus

- 1.Maharasi Murugan
- 2.M.Vignesh Raja
- 3.M.Subbulakshmi
- 4.K.Manickavasagam
- 5.T.K.Rathnam
- 6.Swathi Chandrasekar
- 7.Devarajan G.
- 8.M.Subramanian
- 9.R.Udayakumar
- 10.P.N.S.Udhayasuriyan
- 11.N.Govindarajan
- 12.R.Malliga
- 13.Sampath R.
- 14.Yogendrababu
- 15.K.Venukopalan
- 16.Usha Priadharisini
- 17.R.Saraladevi
- 18.R.Jayalakshmi



Arb.O.P (Com.Div.) No.7 of 2025 and O.A. Nos.869 & 870 of 2024

19.S.Abdul Rahim
20.Amutha
21.G.Shashilkumar
22.Vijayam
23.B.Sundari
24.K.Mukundan
25.V.R.Premkumar
26.T.Srinivasaraghavan
27.Thirulokachandar V.

... Respondents

Prayer: Arbitration Original Petition (Commercial Division) filed under Section 11(6) of the Arbitration and Conciliation Act, 1996 to appoint an Arbitrator to resolve the dispute between the petitioners and the respondents pursuant to the Joint Development Agreement entered into between the petitioners and the respondents and to direct the respondents to pay costs.

For Petitioners : Mr.T.Thiageswaran

For Respondents : Mr.Venkatraman
for Tatva Legal for
1, 3-7, 9, 12 & 14-26

Mr.P.Rubin for 10, 11 & 13

ORDER

O.A. No.869 of 2024:

Learned counsel for the applicants is not pressing this application. He has made an endorsement to that effect in the Court bundle. Accordingly, this application is dismissed as not pressed.

O.A. No.870 of 2024:

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Arb.O.P (Com.Div.) No.7 of 2025 and O.A. Nos.869 & 870 of 2024

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2. There seems to be a dispute arising out of the Joint Development Agreements between the applicants and the respondents. Admittedly, the respondents are individual flat owners in the subject premises for which the applicants claim that they had agreed to develop the properties and construct flats after demolition.

3. This Court, by its order dated 15.11.2024 granted an order of interim injunction restraining the respondents from alienating/encumbering the properties, morefully described in the schedule to the judges summons.

4. According to the learned counsel for the applicants, enormous amount of time and money were spent on the project. He would submit that as on date, approximately Rs.50,00,000/- has been spent for the due execution of the Joint Development Agreements. According to him, despite



Arb.O.P (Com.Div.) No.7 of 2025 and O.A. Nos.869 & 870 of 2024

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readiness and willingness of the applicants to complete the project as per terms and conditions of the Joint Development Agreements, the respondents are now not willing to adhere to the terms and conditions of the contract by fulfilling their part of the contract.

5.However, the same has been disputed by the learned counsels for the respondents, which is supported through their counter filed before this Court. They would submit that all the respondents have not signed the Joint Development Agreements and only 26 flat owners had signed the first Joint Development Agreement entered into with the first applicant and thereafter, the owners representing 12 flats had signed the second Joint Development Agreement entered into with the second applicant.

6.Learned counsel for the applicants would clarify by stating that 21 flat owners had executed a General Power of Attorney in favour of the second applicant authorising the second applicant to deal with the properties, which are morefully described in the schedule to the judges summons.

7.Learned counsels for the respondents would state that 17 flat owners



Arb.O.P (Com.Div.) No.7 of 2025 and O.A. Nos.869 & 870 of 2024

have cancelled the General Power of Attorney executed in favour of the second applicant subsequently.

8.It is not in dispute that the respondents are individual flat owners in the subject premises in which, the applicants have agreed to develop and construct flats pursuant to the Joint Development Agreements. It is also not in dispute that all the flat owners have not signed the Joint Development Agreements. Unless and until all the flat owners have executed the Joint Development Agreements in favour of the applicants, it may not be possible for the applicants to develop the properties.

9.Learned counsel for the applicants would submit that as per the provisions of Tamil Nadu Apartments Ownership Act, 2022, if 2/3rd of the flat owners give consent for development of the properties, the applicants are entitled to develop the properties.

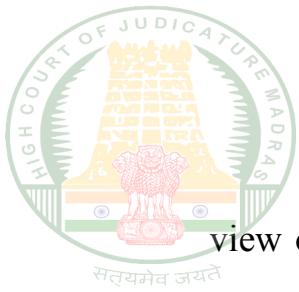
10.Admittedly, as seen from the counter filed before this Court, most of the respondents are Senior Citizens. The same is also not disputed by the



Arb.O.P (Com.Div.) No.7 of 2025 and O.A. Nos.869 & 870 of 2024

applicants. The first Joint Development Agreement was entered into on 15.03.2021 and the subsequent Joint Development Agreement was entered into between July and September 2023. The respondents claim that till date, no development has taken place pursuant to the execution of the Joint Development Agreements. The respondents also state that only a sum of Rs.2,00,000/- was paid as a security deposit that too only for 12 flat owners. The same is also disputed by the learned counsel for the applicants. He would submit that in addition to that, the applicants have spent a sum of Rs.50,00,000/- for paper work to fulfill their part of the contract. The same is disputed by the learned counsels for the respondents. While granting an order of interim injunction, the applicants will have to satisfy the trinity tests, namely, a)prima facie case; b)balance of convenience and c)irreparable hardship.

11.Insofar as the interim injunction granted by this Court is concerned, since this Court is appointing an Arbitrator under Section 11 of the Arbitration and Conciliation Act in Arb.O.P. (Comm.Div.) No.7 of 2025 and after giving due consideration to the fact that as on date, there is no developmental activity taking place in the subject properties pursuant to the alleged Joint Development Agreements claimed by the applicants and in



Arb.O.P (Com.Div.) No.7 of 2025 and O.A. Nos.869 & 870 of 2024

view of the fact that the flat owners are Senior Citizens and in view of the fact that the applicants claim to have spent only a sum of Rs.50,00,000/- even though the value of the properties will fetch several crores of rupees, this Court is not inclined to extend the interim order granted by this Court in favour of the applicants on 15.11.2024. However, this Court reserves the right of the applicants to file an application under Section 17 of the Arbitration and Conciliation Act before the Arbitrator to protect their interest and liberty will have to be granted to the respondents to raise all objections whenever such an application is filed by the applicants before the Arbitrator.

12.For the foregoing reasons, the interim injunction order dated 15.11.2024 passed by this Court in O.A. No.870 of 2024 is suspended. Liberty is granted to the applicants to file an appropriate application if they so desire before the Arbitrator, appointed by this Court under Section 17 of the Arbitration and Conciliation Act to protect their interest and liberty is also granted to the respondents to raise all their objections known to them under law whenever such an application is filed by the applicants before the



Arbitrator.

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Arb.O.P. (Comm.Div.) No.7 of 2025:

The petitioners have filed this petition under Section 11 of the Arbitration and Conciliation Act, seeking for appointment of an Arbitrator by this Court.

2.Counter has also been filed by the respondents to the petition reiterating the contentions, which have been observed by this Court in the earlier paragraphs.

3.Insofar as the Joint Development Agreements are concerned, the respondents would state that since all the parties have not signed the Joint Development Agreements, all the parties are not bound by the arbitration clause.

4.Learned counsels for the respondents would also submit that the group of companies doctrine will also not apply to the case and the respondents as they are individual flat owners and are not group of



companies.

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5.Learned counsel for the petitioners would submit that all the respondents have participated in the negotiation with the petitioners and 21 of them have executed General Power of Attorney in terms of the Joint Development Agreements and therefore, all of them are bound by the arbitration clause contained in both the Joint Development Agreements.

6.On the other hand, learned counsel for the respondents would submit that the Power of Attorney executed by 21 flat owners was cancelled by 17 of them and therefore, the said Power of Attorney cannot be relied for the purpose of claiming that the arbitration clause binds all the respondents.

7.The Arbitration Clause contained in both the Joint Development Agreements, which are the subject matters of the dispute, are reproduced hereunder:

"22. If any dispute arises between the Land owners 1 to 24 and the Builder, the same shall be referred to a Sole arbitrator duly



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Arb.O.P (Com.Div.) No.7 of 2025 and O.A. Nos.869 & 870 of 2024

appointed by the mutual consent and agreement between both the Builder and the Land owners 1 to 24, whose decision shall be final. The venue of arbitration shall be at Chennai. The proceedings of arbitration shall be according to the Arbitration and Conciliation Act, 1996. The Arbitration proceedings shall be subject to the provisions, rules and regulations of THE REAL ESTATE (REGULATION AND DEVELOPMENT) ACT, 2016, Tamil Nadu Real Estate (Regulation and Development) Rules, 2017 and Tamil Nadu Real Estate Regulatory Authority (General) Regulations, 2018".

"31. The parties herein agree to settle all disputes, misunderstandings and difference of opinion that might be arising between them whether as to the interpretation of the terms and conditions, contained herein and/or as to the determination of their respective rights, by way of referring such dispute(s) to the Sole Arbitrator to be appointed by the Party of the Second Part with the consent of the Party of the First part. The procedure as prescribed by the Indian Arbitration and Conciliation Act, 1996 as amended up to date shall be adopted by the sole arbitration/umpire as the case may be. The law application shall be Indian Law and the venue of Arbitration shall be at Chennai. The Courts in Chennai alone shall have sole and exclusive jurisdiction to try all



Arb.O.P (Com.Div.) No.7 of 2025 and O.A. Nos.869 & 870 of 2024

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*consequential proceedings arising from the said award/
arbitration proceedings."*

8.While deciding the petition filed under Section 11 of the Arbitration and Conciliation Act, it is settled law that this Court will have to only look into the prima facie existence of an arbitration clause in the agreements, which are the subject matters of the dispute between the parties. The petitioners have also invoked arbitration by issuing a notice to the respondents on 14.09.2024 as per the provisions of Section 21 of the Arbitration and Conciliation Act. The said notice has also been received by the respondents. But no reply has been received. Since on a prima facie consideration, this Court finds the existence of an arbitration clause in the agreements, which are the subject matters of the dispute between the parties and since the petitioners have invoked arbitration by issuing a notice on 14.09.2024 to the respondents under Section 21 of the Arbitration and Conciliation Act, this Court will have to necessarily appoint an Arbitrator to adjudicate the dispute arising out of the Arbitration Agreements dated 15.03.2021, 14.07.2023, 19.07.2023, 22.07.2023, 25.07.2023, 27.07.2023, 31.07.2023 and 03.08.2023.

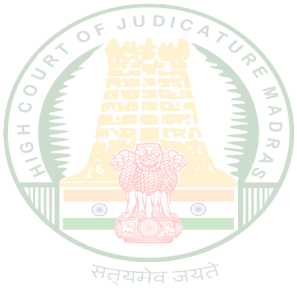


Arb.O.P (Com.Div.) No.7 of 2025 and O.A. Nos.869 & 870 of 2024

WEB COPY 9. For the foregoing reasons, this Arbitration Original Petition is allowed by issuing the following directions:

(a) Both the counsels have made a joint endorsement in the court bundle stating that the parties are agreeable for the appointment of Hon'ble Mr. Justice K.N. Basha, Former Judge of the Madras High Court as the Sole Arbitrator to adjudicate the dispute between the petitioners and the respondents. In view of the consent given by both the counsels, this Court appoints Hon'ble Mr. Justice K.N. Basha, Former Judge, having address at No.25/1, "STAR", F1, Dr. Ambedkar Road, (Old ICF Link Road), North Thirumalai Nagar, Villivakkam, Chennai - 600 049, Mobile No. 94444 54545 as the Sole Arbitrator to adjudicate the dispute between the petitioners and the respondents, arising out of the Arbitration Agreements dated 15.03.2021, 14.07.2023, 19.07.2023, 22.07.2023, 25.07.2023, 27.07.2023, 31.07.2023 and 03.08.2023, 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;



Arb.O.P (Com.Div.) No.7 of 2025 and O.A. Nos.869 & 870 of 2024

(c)Both the parties shall equally share the Arbitrator's fees;

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(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.

20.02.2025

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Arb.O.P (Com.Div.) No.7 of 2025 and O.A. Nos.869 & 870 of 2024

ABDUL QUDDHOSE, J.

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Arb.O.P (Com.Div.) No.7 of 2025 and O.A. Nos.869 & 870 of 2024

20.02.2025