

Malcolm Joseph vs Ivan Joseph

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Court : Kerala

Decided On : Feb-13-2023

Judge : Honourable Mr. Justice Devan Ramachandran

Appeal No. : AR/225/2022

Appellant : Malcolm Joseph

Respondent : Ivan Joseph

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE DEVAN RAMACHANDRAN MONDAY, THE 13TH DAY OF FEBRUARY 2023 / 24TH MAGHA, 1944 PETITIONER: MALCOLM JOSEPH AGED 70 YEARS, SON OF LATE C.B.JOSEPH NO. 310, 5TH FLOOR, KHALEEL SHIRAZI ESTATE, PANTHEON ROAD, EGMORE, CHENNAI, PIN - 600008 BY ADVS. A.KEVIN THOMAS NIDHI SAM JOHNS LIJO JOSEPH (THOPPIL) RESPONDENTS: 1 IVAN JOSEPH, MANAGING PARTNER, M/S. C.B JOSEPH & CO CHARTERED ACCOUNTANTS, CEE BEE BUILDING, HOSPITAL ROAD, KOLLAM, PIN - 691001 2 NAVIN IVAN, PARTNER M/S. C.B JOSEPH & CO CHARTERED ACCOUNTANTS, CEE BEE BUILDING, HOSPITAL ROAD, KOLLAM,

PIN - 691001 BY ADV AJAYA KUMAR. G THIS ARBITRATION REQUEST HAVING COME UP FOR ADMISSION ON 13.02.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER

Pertinently, except the counter argument that the disputes are not arbitrable, the respondents do not oppose this application.

2. However, Sri.G.Ajaya Kumar - learned counsel appearing for the respondents, submitted that since the claim is very low, it will be apposite that an advocate of this Court be

appointed as the Arbitrator; and then further prayed that the question of arbitrableness of the disputes be left to the learned Arbitrator to consider under the kompetenz - kompetenz Principle enshrined in Section 16 of the Taking note of the afore submissions and since Sri.Kevin Thomas - learned counsel for the petitioner, says that the seat of arbitration will have to be in Kollam - both the parties being agreeable to it - I allow this Arbitration Request with the following directions:

(a) I nominate Adv.Alex Thomas, Vadakkadathu, House No.108, T.D.Nagar, Cutcherry

Ward, H.S.Junction, Kollam-13,

Partnership Deed.

(b) The Registry is directed to communicate a copy of this order to the learned Arbitrator within a period of two weeks from today and to obtain a Statement of Disclosure from him under Section 11(8) read with Section 12(1) of the

(c) Once the Disclosure Statement is obtained from the learned Arbitrator, the

Registry shall release the certified copy of this order, with a copy of the said statement appended to it, retaining the original of the same on the files of this case. (d)The fees of the Arbitrator shall be governed by the Fourth Schedule of the

(e) In order to enable the Arbitrator to commence the proceedings without delay, I direct the parties to mark appearance before him at 11 A.M. on 25.03.2023.

Sd/- DEVAN RAMACHANDRAN JUDGE SAS APPENDIX OF AR 225/2022
PETITIONERS ANNEXURES Annexure A1 TRUE COPY OF THE
RECONSTITUTED PARTNERSHIP DEED DATED 31.12.2011 EXECUTED BY
THE APPLICANT AND RESPONDENTS Annexure A2 TRUE COPY OF THE
NOTICE INVOKING ARBITRATION CLAUSE DATED 26.05.2021, ALONG WITH
POSTAL RECEIPTS AND ACKNOWLEDGMENT CARDS Annexure A3 TRUE
COPY OF THE LEGAL NOTICE DATED 07.03.2022, ALONG WITH POSTAL
RECEIPTS Annexure A4 TRUE COPY OF THE UNSIGNED LETTER SENT BY
THE 1ST RESPONDENT ON 22.03.2022 Annexure A5 TRUE COPY OF THE
LETTER DATED 22.03.2022 ALONG WITH ENVELOPE

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