



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 1ST DAY OF AUGUST, 2023

BEFORE

THE HON'BLE MR JUSTICE B M SHYAM PRASAD

CIVIL MISC. PETITION NO. 805 OF 2022

BETWEEN:

SRI M PURUSHOTHAM
AGED 40 YEARS
S/O M RAGHUNATHAM
R/AT NO.20-3-126D, NEAR LEELAMAHAL
S G COLONY, THIRUPATHI
CHITTOOR DISTRICT, AP-517501

...PETITIONER

(BY SRI. PRASAD B., ADVOCATE)

AND:

1. M/S EXCEL DWELLING OXIGEN PRIVATE LIMITED
OFFICE AT NO. 44, 3RD FLOOR
12TH MAIN, 17TH CROSS
6TH SECTOR, HSR LAYOUT
BANGALORE-560102
REP BY ITS DIRECTOR
ALLU SIVA RAMAKRISHNA REDDY
2. M/S EXCEL DWELLINGS INDIA PRIVATE LIMITED
OFFICE AT NO. 44, 3RD FLOOR, 12TH MAIN
17TH CROSS, 6TH SECTOR, HSR LAYOUT
BENGALURU-560102
REP BY ITS DIRECTOR
MOHAMMED MERAJ
3. H M THIPPERUDRASWAMY
AGED 40 YEARS





S/O H N MANJUNATH
R/AT PANATHUR VILALGE AND POST
VARTHUR HOBLI, BENGALURU EAST TALUK
BENGALURU-560087
(SPL POWER OF ATTORNEY FOR ADRESSEE
NO. 1 AND 2)
AND ALSO AT
NO. 44, 3RD FLOOR, 12TH MAIN, 17TH CROSS
6TH SECTOR, HSR LAYOUT
BENGALURU-560102

...RESPONDENTS

THIS CIVIL MISC. PETITION IS FILED UNDER SEC.11(6) OF THE ARBITRATION AND CONCILIATION ACT 1996, PRAYING TO CONSTITUTE AN ARBITRAL TRIBUNAL BY APPOINTMENT OF A SUITABLE PERSON AS THE SOLE ARBITRATOR FOR THE ADJUDICATION OF THE PETITIONER'S CLAIM IN ACCORDANCE WITH THE SAID CLAUSE 8 OF THE AGREEMENT OF SALE DATED 19/01/2015, BEARING DOCUMENT NO. ABL-1-07634/2014-2015, IN BOOK NO.1 AND STORED IN CD NO. ABLD230 VIDE ANNEXURE-B AND ETC.,

THIS PETITION, COMING ON FOR ADMISSION, THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

This petition is filed for appointment of a sole arbitrator relying upon an agreement for arbitration in an Agreement of Sale dated 19.01.2015. The petitioner contends that the arbitration clause is invoked for commencement of the arbitration



proceedings with issuance of legal notice dated 29.06.2019.

Perused the legal notice and it is seen that the petitioner has not nominated the person who could be appointed as sole Arbitrator and in the absence of such nomination, the petition must be treated as premature in view of the provisions of Section 11(5) of the Arbitration and Conciliation Act, 1996. It is accordingly treated, and the petition stands disposed of reserving liberty to the petitioner to file a fresh petition, if there any cause.

The office is directed to return all the original documents to the learned counsel for the petitioner.

Sd/-
JUDGE

CA