

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.07.2017

CORAM

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

O.P. No.260 of 2017

Mr.M.Ethiraj

.. Petitioner

-vs-

- 1.M/s. Shinago Holdings Pvt. Ltd.,
A Private Limited Company
incorporated under the provisions
of the Companies Act, 1956,
having its Registered Office
at No.407, Raheja Towers,
177, Anna Salai,
Chennai 600 002.
- 2.M/s. Padmaadevi Sugars Limited
(Formerly known as M/s. S.V.Sugar Mills Ltd.)
A Public Limited Company
incorporated under the provisions
of the Companies Act, 1956,
having its Registered Office
at No.106, Palayasivaram Village,
Kancheepuram, Tamil Nadu 631 606.
- 3.M/s. Thirumagal Enterprises Limited
(Formerly known as M/s. Thirumagal Engineering
Limited, Originally incorporated as
M/s. Binny Engineering Limited)
A Public Limited Company
incorporated under the provisions
of the Companies Act, 1956,
having its Registered Office
at Meenambakkam
P.O.Box No.8677, Chennai 600 114.

.. Respondents

Prayer: Petition filed under Section 11(5) of the Arbitration & Conciliation Act, 1996 to appoint a Sole Arbitrator to hear and decide the disputes that have arisen between the parties under the agreement dated 09.10.2013.

For Petitioner : Mr.R.Venkatavaradan

For Respondents : Ms. Geetha Rajasekar

ORDER

This petition seeks appointment of a Sole Arbitrator to resolve the disputes between the petitioner and respondent that have arisen pursuant to agreement dated 09.10.2013.

2.Heard the learned counsel appearing for the parties.

3. An Agreement, dated 09.10.2013, was executed inter se between the parties and the dispute resolution clause is set out in clause 'b' of the agreement, which reads as under:

“Any dispute arising out of this Agreement shall be subject matter of Arbitration and the same shall be held under the provisions of Arbitration and Conciliation Act, 1996. The venue of arbitration shall be at Chennai. It is also agreed that the Courts in Chennai shall have exclusive jurisdiction for the purposes of this

Agreement.'

4. When the matter is taken up for hearing, both the parties by consent agreed that Justice Mr.K.Govindaraj, Former Judge of this Court may be appointed as the sole Arbitrator to adjudicate upon the disputes that have arisen between the parties.

5. Ms.Geetha Rajasekar, learned counsel appearing for the respondent further makes an earnest attempt to persuade the Court to outline the scope of dispute to be adjudicated upon by the Arbitrator which is opposed by Mr. R.Venkatavaradan, learned counsel appearing for the petitioner.

6. I am not in agreement that this Court should, at the stage of ordering the petition under Section 11(6) of the Arbitration and Conciliation Act, 1996, (in short 'Act') tie the hands of the Arbitrator with respect to the scope of dispute to be adjudicated upon by him in exercising his powers. The object of Section 11(6) of the Act, is to bring into effect the clause for Arbitration and appoint an Arbitrator, who would then adjudicate upon the disputes between the parties.

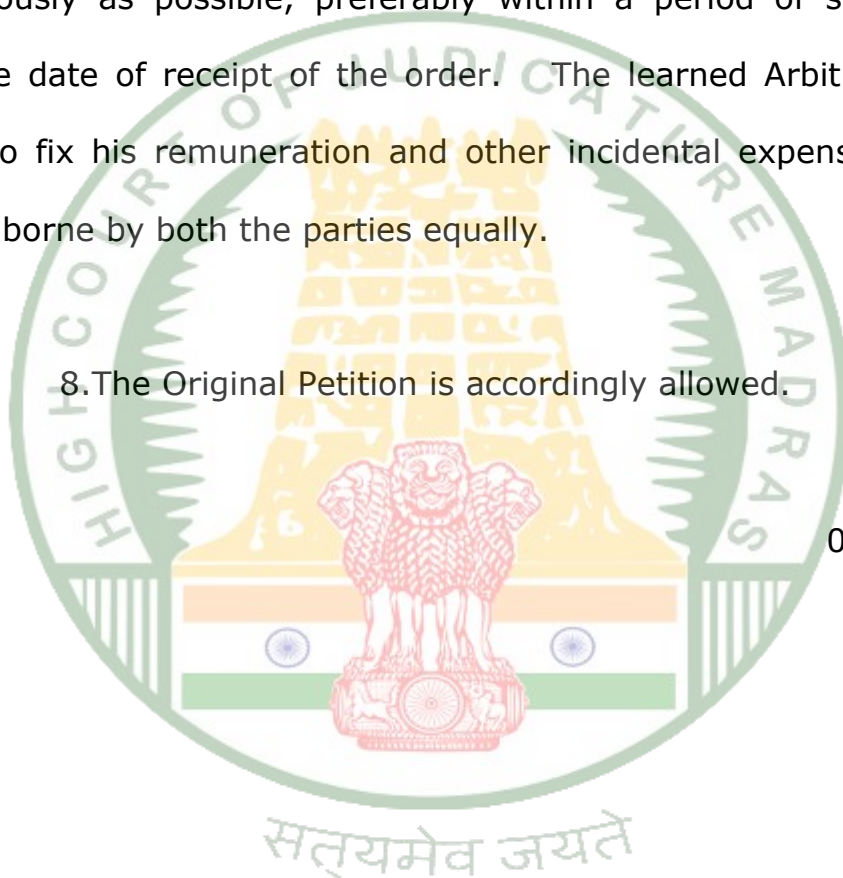
7. In the aforesaid circumstances, I appoint Justice Mr.K.Govindarajan, Former Judge of Madras High Court, residing at

New No.8, Old No.5, Justice Ramanujam Road, Malaviya Avenue, Shastri Nagar, Chennai - 600 041, (Phone nos.044-24523403 & 9444403403) as the Sole Arbitrator to enter upon reference and after issuing notice to the parties and upon hearing them, pass an award as expeditiously as possible, preferably within a period of six months from the date of receipt of the order. The learned Arbitrator is at liberty to fix his remuneration and other incidental expenses, which shall be borne by both the parties equally.

8.The Original Petition is accordingly allowed.

05.07.2017

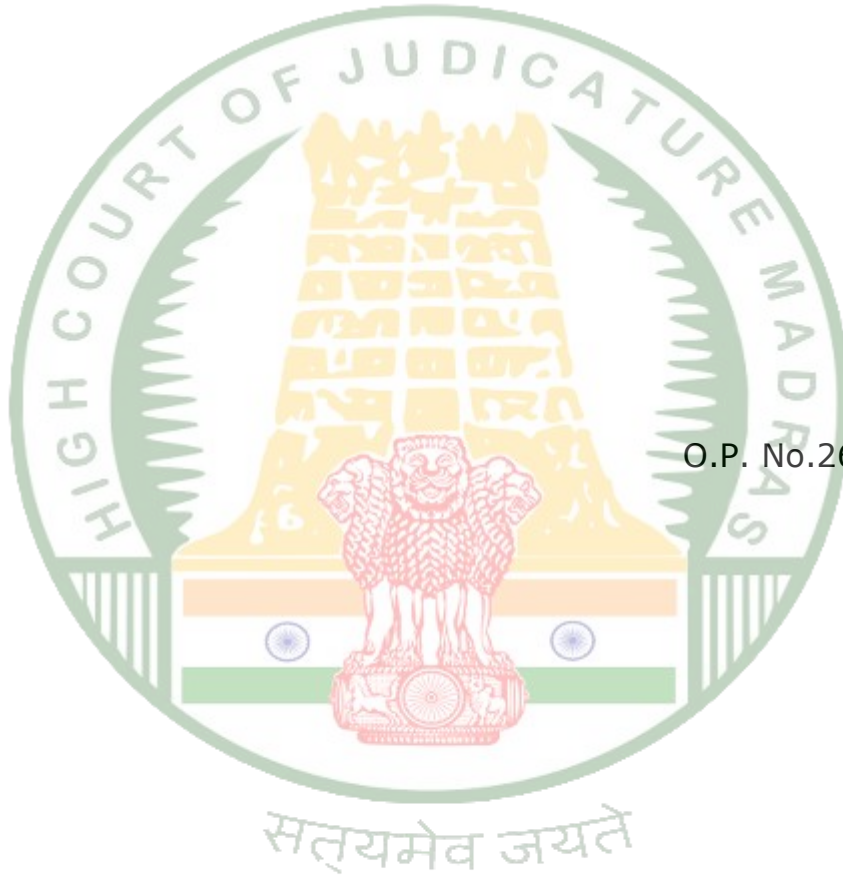
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Dr.ANITA SUMANTH, J.

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