

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

MONDAY, THE 17TH DAY OF SEPTEMBER 2018

THE HON'BLE MR. JUSTICE C.SARAVANAN

O.A. No.515 of 2018

In the matter of Arbitration and  
Reconciliation Act, 1996

And

In the matter of termination  
notice issued on 06.05.2018 by  
M/s.Rotary Club of Madras  
Vadapalani.

Mr.G.V.Ramana

Flat No.D-63, Doshi Gardens,  
Door No.174, Arcot Road, Vadapalani,  
Chennai 600 026.

... Applicant

-Versus-

1. Rtn.R.Kannan,  
President,  
M/s.Rotary Club of Madras Vadapalani,  
No.17, 80th Street,  
Ashok Nagar, Chennai 600 083.
2. Rtn Hema Mani,  
Secretary,  
M/s. Rotary Club of Madras Vadapalani,  
No.33, 79th Street,  
18th Avenue, Ashok Nagar,  
Chennai 600 083.
3. Rtn.P.S.Arunagiri,  
No.3, L.B.Shastri Street,  
Satya Garden, Chennai 600 093.
4. Rtn.A.Chandrasekaran,  
No.1A, Rajkumar Regency,  
6 & 7, Sankaran Avenue,  
Somasundaram Street, 100ft Road,  
Velachery, Chennai 600 042.

5. Rtn.N.Suresh Joshi,  
No.2, (Old No.39), 18th Avenue,  
Ashok Nagar, Chennai 600 083.
  6. Rtn. M.Sivakumar,  
No.3/1631, Bharathi Street,  
Shanmuga Nagar, Madanandapuram,  
Porur, Chennai 600 116.
  7. Rtn.Dr.K.Selvam,  
Plot No.37E, North Parade Road,  
St.Thomas Mount, Chennai 600 016.
  8. Rtn.G.Rama Somayazulu,  
Old No.72/4, New No.11/4,  
1st Avenue, Ashok Nagar,  
Chennai 600 083.
  9. Rtn.Shanthi Selvam (Senior),  
Plot No.37E, North Parade Road,  
St.Thomas Mount, Chennai 600 016
- ...Respondents

Original Application praying that this Hon'ble Court be pleased to grant an order of interim injunction restraining the respondents, his men, servants and agents from any way interfering with the petitioner/applicant from functioning of the Rotary member and management of M/s. Rotary Club of Madras, Vadapalani, pending disposal of the Arbitration Proceedings.

This Original Application coming on this day before this court for hearing the court made the following order:-

The above application has been filed for an interim injunction to restrain the respondent, the men, servants and agents from in any way interfering with the applicant from functioning as rotary member of M/s. Rotary Club of Madras Vadapalani, pending disposal of the arbitration proceedings

2. The case of the applicant is that he became a member of the said Rotary Club in the year 2009 and in the year 2016-2017, he was elected as the President of the said club and was co-opted as a trustee during his presidency.

3. It is a case of the applicant that as president he was not in charge of trust accounts, receipts, deposits received under Section 80 G of Income Tax Act, 1961 bank operations etc and that these operations were controlled only by the Managing Trustees.

4. As the President, the applicant claims to have attended only three Trust Board Meetings and he had nothing to do with the Trust matters.

5. Certain allegations have been levelled against applicant regarding financial regularities during his tenure as the President and for sending unsavouring messages with sexual information on WhatsApp to one of the lady Rotarian of the said Club. These allegations have lead to convening of a Special Board Meeting on 9.4.2018 of the said club. The applicant claims to have also apologised to the lady concerned and according to him and the issue was settled amicably

between them.

6. However a Show Cause Notice dated 21.4.2018 was issued to the applicant. The applicant has sent a reply dated 30.04.2018 and has denied the allegations contained therein.

7. In a Board Meeting of the Office-bearers of the said Club held on 20.4.2018 and 4.5.2018, a decision to terminate the applicant's membership was taken and communicated by a letter dated 06.05.2018 to the applicant. The applicant has paid a sum of Rs.45,000/- on 10.05.2018. The applicant thereafter caused a legal notice dated 07.05.2018, to the secretary of the club and called upon the fellow members to tender an apology in open auditorium and in writing and to pay a sum of rs.25,00,000/- as compensation.

8. By an order dated 31.05.2018, the applicant secured in interim injunction. By an order dated 1.8.2018 both the parties were directed to approach the Tamil Nadu Mediation and Conciliation Centre, High Court for conciliation in terms of article 19 of the Constitution and the bylaws of the Rotary club of Madras Vadapalani.

9. As the mediation failed, the case has been listed for hearing and passing order. I have gone through the facts on record and the submissions made by the counsel for respective parties.

10. It is the contention of the applicant that the termination of his membership from the club was illegal and arbitrary therefore pending arbitration proceeding there be an order of injunction.

11. Per contra the learner counsel for the respondent contended that the conduct of the applicant was unbecoming of an member of the said Rotary Club and therefore his membership was rightly terminated by the respondent's. It has been further alleged that he had sent obscene messages on WhatsApp to 1 of a lady member of the said Rotary club and ill-treated her front of a board meeting and it was only after detailed enquiry the membership of the applicant was terminated.

12. Heard the counsel for the respective parties. At the outset, it may be noted that the applicant has not made the Rotatory Club of Madras Vadapalani a party to the present

proceeding. Instead, only the individual office bearers are parties to the present case. Be that as it may, dispute between a member and the club is arbitrable under Article 19 (4) of the Act.

13. The Communication dated 06.05.2018 terminated the membership of the applicant. It is however not supported by any reasoning.

14. Any dispute between a member and the club is to be resolved in an arbitration proceeding wherein each of the parties are to nominate an arbitrator who in turn are to nominate/appoint an umpire's (Presiding Arbitrator) whose decision shall be final. Article 19 mandates only Rotarian can be appointed/nominated as an arbitrator. The applicant has been nominated Mr Hussein Afroze, an advocate as an arbitrator who is not a rotarian.

15. Whether the termination of membership to the applicant from the Rotary Club of Madras Vadapalani was justified or not has to be determined in an arbitral proceedings provided the applicant also co-operates by appointing a rotarian as an arbitrator.

16. It is noticed that the interim order was secured on 31.05.2018 and arbitral proceedings ought to have commenced within 90 days from the date of the said order. This has not taken place.

17. Therefore, there is no point in continuance of the interim order unless the parties attempt to resolve the dispute between them under the mechanism agreed upon and binding them.

18. Therefore, the following orders are passed:

i) the Interim order granted by this Court on 31.05.2018 in force shall continue for the period of another 30 days from the date of receipt of this order hosting in the High Court's Website, whichever is earlier.

ii) The applicant shall nominate a rotarian as his a arbitrator as per the bye-law within 15 days of receipt of this order/hosting in the High Court's Website, whichever is earlier

iii) If the applicant fails to nominate the arbitrator within such time, the interim order shall stand automatically vacated on the expiry of 15<sup>th</sup> day as above.

iv) The respondent shall also appoint an arbitrator within 15 days such nomination by the applicant.

iv) Two arbitrators nominated by each of the parties shall thereafter nominate a Presiding Arbitrator within 15 days .

v) The arbitrators may consider the request of the applicant as to whether the applicant can be allowed to continue to be a member pending final award, if formal applications are filed within the expiry of 30 days of receipt of this order/hosting of this order in High Court's Website.

vii) The applicant shall co-operates in the arbitrators further proceedings.

with the above observation, this original application is disposed.

Sd/-C.S.N.J  
17/09/2018

//Certified to be a true copy//

Dated this the        day of                      2018

JJ 08.11.2018

COURT OFFICER

From 25.09.2008 the Registry is issuing certified copies of the Order/Judgment Decree in this format.