

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.06.2018

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THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

O.P.No.236 of 2018
and O.A.No.17 of 2018

H.Devanathan

.. Petitioner/Applicant

Vs.

1. B.Varun Prakash

2. S.Anthony George

.. Respondents

* * *

Prayer in O.P.No.236 of 2018 : Petition filed under Section 11(5) of the Arbitration and Conciliation Act, 1996, praying to pass an order of appointment of an Arbitrator preferably being a retired District Judge having the arbitration seat at Chennai to resolve the dispute arose between the petitioner and the respondent herein in respect of Partnership Deed dated 19.11.2012 executed between themselves at Chennai.

Prayer in O.A.No.17 of 2018 : Petition filed under Section 9 of the Arbitration and Conciliation Act, 1996, praying to pass an order of injunction restraining the respondents, their men, servants, agents or anybody acting under them from interfering with peaceful running of business in the name and style of "Hotel Bhukara" at Shop No.29, TNHB Shopping Complex, 7th Avenue, Mogappair Road, Anna Nagar, Chennai-600 101 morefully described in the schedule mentioned property and in the administration of the firm "Hotel Bhukara" the

partnership concern run in the suit premises without due process of law pending arbitration.

* * *

For Petitioner : Mr.C.Shankar

For Respondents : Mr.J.Pothiraj

COMMON ORDER

This Original Petition is filed seeking appointment of a Sole Arbitrator to resolve the disputes arisen between the petitioner and the respondents.

2. There was a Partnership Deed dated 19.1.2012 between the petitioner, the respondents and one Mr.V.Loganathan, to run a hotel under the name and style as "Hotel Bhukara" in a housing board premises. Originally, the land was allotted to the said Loganathan, for running a hotel, who was unable to expand it. Hence, he joined with the petitioner and the respondents for expanding the same and thus, entered into the aforesaid partnership deed. According to the deed, the petitioner and the respondents had invested equal sum of money as capital, while Loganathan had given the premises for the business.

3. It is alleged that though the petitioner had invested additional amount and had been sincerely contributing for the welfare of the

business, the respondents, colluding with the Loganathan, are attempting to drive him out from the business. Hence, invoking Clause 24 of the Partnership Deed, the petitioner had issued statutory notice under Section 11 of the Arbitration and Conciliation Act, 1996 (in short "the 1996 Act") on 04.01.2018. But the respondents have chosen not to reply to the same. Hence, the present petition.

4. When the matter is called for hearing today, both the learned counsels agreed that Mr.G.Dharmaraj, a retired District Judge, be appointed as the Sole Arbitrator.

5. Thus, this Court appoints Mr.G.Dharmaraj, Retired District Judge, residing at No.19/2, 8th Street, Eswaran Nagar, Pammal, Chennai-600 075, as the Sole Arbitrator to enter upon reference and adjudicate the disputes inter se the parties. The learned Arbitrator may, 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. The proceedings may be conducted under the aegis of the Madras High Court Arbitration Centre and in accordance with the Madras High Court Arbitration Rules.

6. The Original Petition is, accordingly, allowed, leaving the parties to bear their own costs.

7. Consequently, the Original Application is closed, with liberty to the applicant to approach the named Arbitrator for any appropriate relief in accordance with law. Till then, status quo to be maintained.

14.06.2018

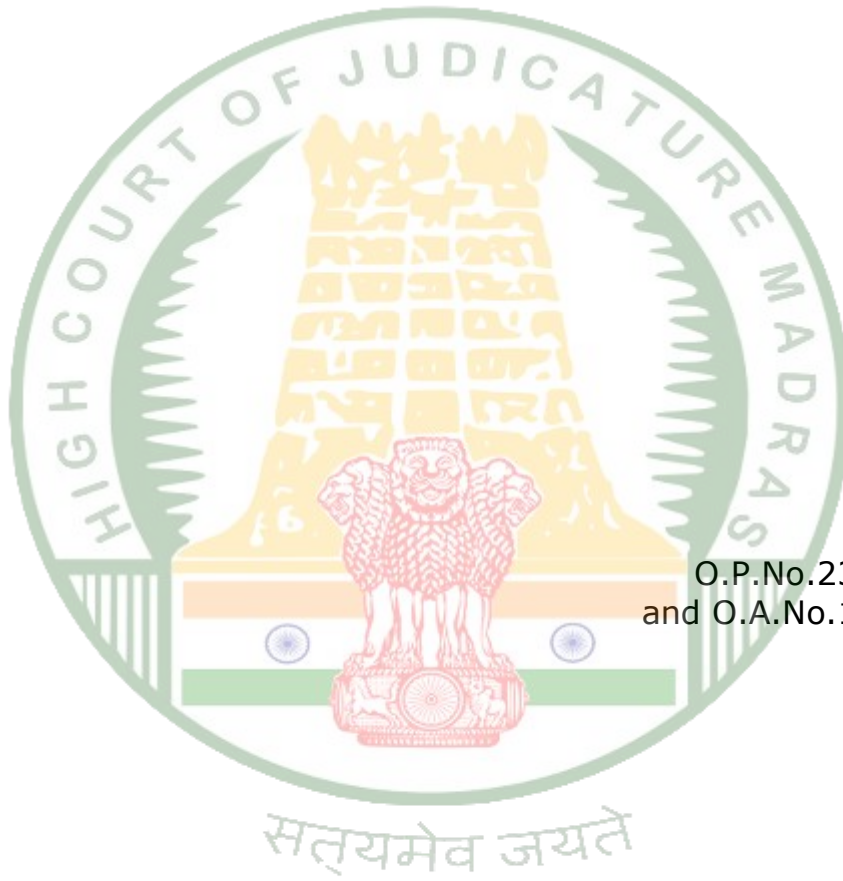
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