

In the High Court of Judicature at Madras

Dated : 26.3.2019

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM
and
The Honourable Mrs.Justice V.BHAVANI SUBBAROYAN

Original Side Appeal Nos.69 & 70 of 2019 &
CMP.Nos.6568 & 6578 of 2019

M/s.Universal Sompo General
Insurance Co. Ltd., rep.by
Mr.K.Saravanan, Zonal Claims
Manager

...Appellant in
both OSAs

Vs

M/s.Shri Balaji Agencies,
Chennai-32.

...Respondent in
OSA.No.69/2019

M/s.Sri Balaji Associates,
Chennai-32.

...Respondent in
OSA.No.70/2019

APPEALS under Order XXXVI Rule 1 of the Original Side Rules
read with Clause 15 of the Letters Patent against the common
order dated 17.12.2018 made in O.P.Nos.943 and 945 of 2018.

Prayer in O.P.Nos.943 and 945 of 2018: Petition filed under
Section 11(6) of the Arbitration & Conciliation Act, 1996,
praying to appoint a Sole Arbitrator to decide the dispute
between the petitioners and the Respondent arisen out of the
claim made by the petitioner to the respondent under the
standard fire and Special Perils policy Nos.2114/53167686/02/000
and 2114/52813329/02/000 respectively, with the respondent
Insurance Company.

For Appellant in both the appeals : Ms.Vandana Parasuram
For Respondent in both the appeals : Mr.S.R.Sundar

COMMON JUDGMENT
(Judgment was delivered by T.S.SIVAGNANAM,J)

We have heard Ms.Vandana Parasuram, learned counsel for the
appellant and Mr.S.R.Sundar, learned counsel accepting notice
for the respondents.

2. When the matter is called today, the learned counsel for the appellant submits that she has instructions to withdraw these appeals.

3. Initially, we were of the opinion that it is an innocuous prayer and can be ordered.

4. However, the learned counsel accepting notice for the respondents submits that the common order dated 17.12.2018 in O.P.Nos.943 and 945 of 2018, which is impugned before us, is a consent order and that appeals against the consent order are not maintainable.

5. We have perused the common order impugned in these appeals and in paragraph 2, the learned Single Judge clearly recorded that the learned counsel on either side had, by consensus, proposed the name of the learned Senior Counsel to be appointed as the sole Arbitrator. In the memoranda of grounds of appeal, the appellant nowhere stated that they have never instructed their counsel to agree for a named Arbitrator before the learned Single Judge. On the contrary, the grounds of appeals proceed as if the learned Single Judge erred in appointing the learned Senior Advocate as the sole Arbitrator instead of a Presiding Arbitrator.

6. Therefore, we are of the view that the appeals themselves are not maintainable and we are not inclined to entertain the appeals. Considering the above fact situation, we decline the permission sought for by the learned counsel for the appellant to withdraw the appeals, as we propose to dismiss the appeals. Under normal circumstances, we would have been well justified in imposing heavy cost on the appellant in filing the appeals. However, considering the fact that the learned counsel for the appellant is a young member of the Bar and the fact that she did not appear before the learned Single Judge, we refrain from imposing any cost.

7. For the above reasons, the above original side appeals are dismissed. No costs. Consequently, the connected CMPs are also dismissed.

Sd/-
Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

RS

+2 ccs to Mr.SR.Sundar, Advocate, S.R.No.29436, 29437

+2 ccs to Mrs.Vardanaparasuram, Advocate, S.R.No.29377, 29378

OSA.Nos.69 & 70 of 2019 and
CMP.Nos.6568 & 6578 of 2019

SSP (CO)
SSM(29/04/2019)



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