

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.06.2019

CORAM

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

O.P.Nos.577 to 579 of 2018
& O.A.Nos.81, 82 and 84 of 2018
and A.Nos.1191 and 1192 of 2018

O.P.No.577 of 2018 :

1. V.G.Santhosam

2. VGP.Ravidas

3. VGP.Rajadas

4. VGP.Babudas

5. VGP.Prasad Dass

6. VGP.Murphy Dass

all are Partners of M/s.V.G.P. Investments,
VGP Square, No.6, Dharmaraja Koil Street,
Saidapet, Chennai-600 015.

.. Petitioners

Vs.

1. V.G.S.Vinodh Raj
Partner of M/s.V.G.P.Investments,
No.24, Olive Beach, ECR,
Injambakkam, Chennai-115.

2. V.G.Selvaraj,
Partner of M/s.V.G.P.Investments,
No.24, Olive Beach, ECR
Injambakkam, Chennai-115.

3. V.G.S.Rajesh,
Partner of M/s.V.G.P.Investments,
Am65, 14th Main Road, Santhi Colony,
Anna Nagar West, Chennai-600 040.

.. Respondents

O.P.No.578 of 2018 :

1. V.G.Santhosam
2. VGP.Ravidas
3. VGP.Rajadas
4. VGP.Babudas
5. VGP.Prasad Dass
6. VGP.Murphy Dass
All are Partners of M/s.V.G.P. Beach Housing,
VGP Square, No.6, Dharmaraja Koil Street,
Saidapet, Chennai-600 015.

.. Petitioners

Vs.

1. V.G.S.Vinodh Raj
Partner of M/s.V.G.P.Beach Housing,
No.24, Olive Beach, ECR,
Injambakkam, Chennai-115.
2. V.G.Selvaraj,
Partner of M/s.V.G.P. Beach Housing,
No.24, Olive Beach, ECR
Injambakkam, Chennai-115.
3. V.G.S.Rajesh,
Partner of M/s.V.G.P.Beach Housing,
Am65, 14th Main Road, Santhi Colony,
Anna Nagar West, Chennai-600 040.

.. Respondents

O.P.No.579 of 2018 :

1. V.G.Santhosam
2. VGP.Ravidas

3. VGP.Rajadas

4. VGP.Babudas

5. VGP.Prasad Dass

6. VGP.Murphy Dass

All are Partners of

M/s.V.G.Pannerdas and Company,

VGP Square, No.6, Dharmaraja Koil Street,

Saidapet, Chennai-600 015.

.. Petitioners

Vs.

1. V.G.S.Vinodh Raj

Partner of M/s.V.G.Pannerdas and Company,

No.24, Olive Beach, ECR,

Injambakkam, Chennai-115.

2. V.G.Selvaraj,

Partner of M/s.V.G.Pannerdas and Company,,

No.24, Olive Beach, ECR

Injambakkam, Chennai-115.

3. V.G.S.Rajesh,

Partner of M/s.V.G.Pannerdas and Company,

Am65, 14th Main Road, Santhi Colony,

Anna Nagar West, Chennai-600 040.

.. Respondents

सत्यमेव जयते

Common Prayer : Original Petitions filed under Section 11(6) of the Arbitration and Conciliation Act, 1996 praying to appoint a Sole Arbitrator to adjudicate upon the disputes between the petitioner and the respondent arising out of the agreement dated 25.08.1993.

For Petitioners in :
all the OPs

Mr.K.P.Sajeev Kumar
for M/s.Ojas Law Firm

For Respondents :
in all the OPs

Mr.Karthik Seshadri
for M/s.Iyer & Thomas for R1

Mr.S.Srinivas for R2

Mr.R.Kannan for R3

COMMON ORDER

These Original Petitions have been instituted seeking appointment of a Sole Arbitrator to resolve the disputes between the petitioners and respondents with reference to the Agreement dated 25.08.1993 and 27.08.1993.

2. Originally, the fourth petitioner in these original petitions filed O.A.Nos.81, 82 and 84 of 2018 seeking to restrain the respondents from dealing with the applicants' firms properties in any manner whatsoever, by themselves or through any other persons, directly or indirectly, whether as partners, employers, employees, servants, principals or agents or otherwise whosoever.

2.1. This Court, vide order dated 05.02.2018, while ordering notice, granted interim injunction till 26.02.2018. The applicant undertook before this Court to initiate arbitration. The said interim order was periodically extended and lastly on 31.07.2018.

3. Subsequently, the fourth petitioner filed A.Nos.1191 and 1192 of 2018 against the first respondent herein, besides arraying some of

their bankers as parties. The prayer made therein was to direct the banks to restore the operations of the applicants accounts, which were sought to be freezed at the instance of the first respondent.

3.1. On 09.02.2018, this Court ordered notice to the respondents and directed the Banks to keep the action of freezing the bank accounts, pursuant to the request of the first respondent, in abeyance till 02.03.2018, which interim relief was modified on 31.07.2018 permitting the applicant to operate the accounts for the purpose of day to day activities.

4. This Court, vide the said interim order dated 31.07.2018, directed to parties to attempt for mediation, which could not be completed, as per the Mediation Report 08.11.2018.

5. The petitioners and the respondents are none other than cousins and nephews. There were three partnership deeds dated 21.12.1982, which were modified on 25.08.1993 and 01.10.1994. The deeds provide for arbitration, if any dispute or difference among the partners, giving right to each party to appoint an arbitrator or the partners mutually agreeing upon to a single arbitrator.

6. Admittedly, disputes arose among a group of partners with another fraction leading to the filing of these applications and petitions. Pursuant to the undertaking given by the applicant/s before this Court on 05.02.2018 and 09.02.2018, the petitioners, through their counsel, sent arbitration notice dated 13.02.2018 to the respondents appointing one Mr.Neelakantan, Chartered Accountant as a sole arbitrator and sought consent of the respondents. The third respondent sent a letter dated 02.03.2018, wherein, he did not agree with the nomination and instead, he nominated one Mr.R.Kannan, Advocate, to act as the sole arbitrator or one of the arbitrators. Since there is no consensus on the appointment of the arbitrator, the petitioner filed the instant petitions under Section 11(6) of the Arbitration and Conciliation Act, 1996.

7. Having considered the submissions of both sides, this Court appoints Hon'ble Mr.Justice K.Kannan, a retired Judge of Punjab and Haryana High Court, residing at No.23/6, Sreela, Gilchrist Avenue, Chetpet, Chennai-600 031, (Phone No.97800 08145), 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.

8. These Original Petitions are ordered accordingly, leaving the parties to bear their own costs.

9. The interim orders already granted in the instant applications are extended till 31.07.2018. It is open to the parties to seek any interim relief before the learned Arbitrator, including extension or variation of the interim orders of this Court, by filing appropriate petition under Section 17 of the Arbitration and Conciliation Act, 1996.

10. With these observations, all these applications are closed.

सत्यमेव जयते

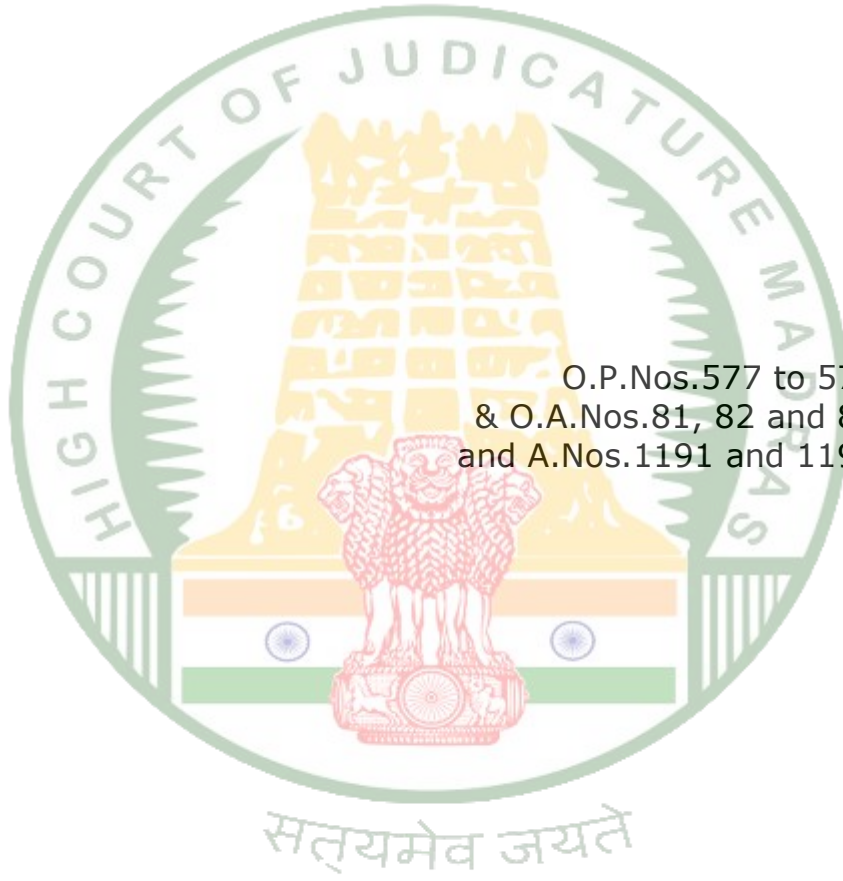
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PUSHPA SATHYANARAYANA, J.

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