

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

WEDNESDAY, THE 28th DAY OF AUGUST 2019

THE HON'BLE MRS. JUSTICE PUSHPA SATHYANARAYANA

O.A. Nos. 626 of 2019

and

A. Nos. 3422 and 4418 of 2019

In the matter of the
Arbitration and Conciliation
Act, 1996

And

In the matter of
Reconstituted Partnership
Deed of M/s M&B Associates
dated 16.11.2017.

M/s M & B Associates, सत्यमेव जयते
(Reg.No.16/2014),

Represented by the Managing Partner,

Mr. Francis Kannookadan,

Having registered office at
F3, No.10, Muralidharan Street,

Ayavoo Colony,

Aminjikarai,

Chennai - 600 029.

... Applicant

(O.A.No.626 of 2019

and A.No.4418 of 2019)

-Versus-

Mr.Martin Sebastian,
S/o Late Sebastian,
Citadel House,
Nadathara Village,
Thrissur Taluk,
Thrissur District.

... Respondent

(O.A.No.626 of 2019
and A.No.4418 of 2019)

O.A. No. 626 of 2019:-

Original application praying that this Hon'ble Court be pleased to grant an order and injunction restraining the Respondent or his men or agent or representatives from directly or indirectly interfering with the business of FMFL carried on by 'M & B Associates'.

A. No.3422 of 2019:-

In the matter of the
Arbitration and Conciliation
Act, 1996

And

In the matter of
Reconstituted Partnership
Deed of M/s M&B Associates
dated 16.11.2017.

Mr.Martin Sebastian,
S/o Late Sebastian,
Citadel House,
Nadathara Village,
Thrissur Taluk,
Thrissur District.

... Applicant

1. Mr.Francis Kannookadan,
S/o Thomas Kannookadan,
Kannookadan House,
Koratty P.O., Koratty Village,
Mukundapuram Taluk,
Thrissur District - 680 308.
 2. Mrs.Manjula Syamnath,
W/o Dr.Syamnath.S,
No.6, Sir Madhaan Nair Road,
Mahalingapuram, Chennai - 600 034.
 3. Mrs.Beena Unnikrishnan,
W/o Col.Unnikrishnan.K,
Porunami, Vikas Nagar - 19,
Pattathanam, Kollam,
Kerala - 691 021.
Now residing at:
No.22/27, Ali Khan Street,
St.Thomas Mount, Chennai - 600 016.
 4. Mr.Anilkumar Gopan,
Beena Mandir,
Chengamanadu P.O.,
Aluva, Aluva Taluk,
Ernakulam District - 683578.
- ... Respondents

A. No.3422 of 2019:-

Application praying that this Hon'ble Court be pleased to grant an order of Appointment of Advocate Commissioner to inspect and ascertain the status and the quantity of the stock lying in the name of the M and B Associates in the

and No.3, Cochin Port Trust Land, Vallarpadam, Kochi and
(ii) M/s. LCL Logistics India Pvt. Ltd., at Sy.No.97/1 B,
NH-207, Thirumalashetty Halli Cross, Koraluru Village,
Nadavathi Post, Bangalore.

A. No. 4418 of 2019:-

Application praying that this Hon'ble Court be pleased to pass a mandatory order and direction against the Respondent to deposit with the Hon'ble Court a sum of Rs.75,18,000/- (Rupees Seventy Five Lakhs Eighteen Thousand Only).

These Applications coming on this day before this court for hearing, the Court made the following order:-

This original application has been filed seeking an order of injunction restraining the respondent or his men or agent or representatives from directly or indirectly interfering with the business a FMFL carried on by M & B Associates.

2. The applicant filed A.No.4418 of 2019 seeking a mandatory order and direction against the respondent to deposit with the Hon'ble Court a sum of Rs.75,18,000/-

3. The respondent herein/the applicant in O.A.Nos.477 to 479 of 2019 filed A.No.3422 of 2019 seeking an order of appointment of Advocate Commissioner to inspect and ascertain the status and the quantity of the stock lying in the name of the M and B Associates in the warehouse maintained by (i) MIV Logistics Private Limited at No.3, Cochin Port Trust Land, Vallarpadam, Kochi and (ii) M/s.LCL Logistics India Pvt. Ltd. at Sy. No.97/1B, NH-207, Thirumalashetty Halli Cross, Koraluru Village, Nadavathi Post, Bangalore.

4. The case of the applicant is that the earlier partnership firm was dissolved and a new partnership firm was constituted on 27.02.2019. However, this new partnership firm has also been running in the same name (M & B Associates).

5. The learned counsel for the respondent contended

that the freshly constituted partnership firm has been

continuing in the same name and therefore, it is not a new firm, but it is only continuation of the old firm and that the applicant is bound to produce the accounts and that they should not be allowed to continue the business. However, as it is an on-going concern, the reconstituted partnership firm M & B Associates will continue its business as ordered earlier in the other applications, and the respondent herein is only entitled for information about the business.

6. The applicant is also pointed out that despite the fact that new partnership firm constituted on 27.02.2019 and the respondent is kept away from the business, the respondent is indulging in writing letters to other traders involved in the business making allegations against the applicant. It is also evident from the letter dated 24.05.2019 and communications from other corporations, who are supplying to the partnership firm.

7. As already the respondent was granted an order by this Court that he will be taken into confidence by getting all the reports with respect to the business being done by the partnership firm till the disposal of their arbitral proceedings, the respondent shall not interfere in the business being done by the applicant with the newly reconstituted partnership firm dated 27.02.2019.

8. The learned counsel for the respondent also requires particulars as scheduled in A.No.479 of 2019 and the applicant also agrees to furnish the particulars.

9. With the above directions, all these applications are closed. It is open to the parties to workout their remedies under Section 17 of the Arbitration and Conciliation Act before the Arbitral Tribunal, which is said to have been constituted.

Sd./-P.S.N.J

28/08/2019

//Certified to be true copy//

Dated at Madras this the day of 2019.

COURT OFFICER(O.S.)

jj 20/12/2019

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