

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.08.2019

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

C.M.A.No.3210 of 2019 and

CMP.No.18308 of 2019

1. A.Jayakanthan
2. J.Jayanth

... Appellants/Petitioner/Respondent

-vs-

1. M/s.J.R.S.Crusher
rep. by its Partner Mr.Ramesh,
S.F.No.351/1, Hosapuram Village,
Denkanikottai Taluk,
Krishnagiri District.

2. M.Sathiamurthy
3. M.Santhamurthy
4. N.Ramesh
5. T.Jaganathan

... Respondents/Respondent/Petitioner

Memorandum of Grounds of Civil Miscellaneous Appeal filed under Section 37 (2) (b) of the Arbitration and Conciliation Act, 1996 against the order of the learned Sole Arbitrator Mr.L.Yousif Ali, District Judge (Retd.) dated 10.07.2019 in M.P.No.18 of 2019 in O.P.No.347 of 2016.

For Appellants :: Mr.T.M.Hariharan
for M/s.Siva Subramanian K.

For Respondents :: M/s.Kanimozhi Mathi
1 to 4

JUDGMENT

This Civil Miscellaneous Second Appeal has been directed against the impugned order dated 10.07.2019 passed in M.P.No.18

of 2019 in O.P.No.347 of 2016 by the Sole Arbitrator Mr.L.Yousif Ali, District Judge (Retd.) on the ground of inordinate delay in filing such petition.

2. Mr.T.M.Hariharan, learned Counsel appearing for the appellants would submit that reasons are given clearly as to why the respondents/appellants have moved the M.P.No.18 of 2019 in O.P.No.347 of 2016 with a delay of three years.

3. Learned Counsel for the respondents 1 to 4 has brought to my notice that when six months time was granted by this Court in A.No.804 of 2018 in O.P.No.347/2016 for completing the entire proceedings, entertaining such a petition after 3 years from the date of filing of the statement of claim cannot be entertained.

4. A perusal of the impugned order passed by the learned Sole Arbitrator reveals that the learned Sole Arbitrator while holding that the idea of enactment of the Arbitration and Conciliation Act is for the purpose of avoiding the inordinate delay in getting justice by virtue of Section 29-A of the Arbitration and Conciliation Act, which mandates that the proceedings before the arbitrator shall be completed in 12 months, has dismissed the Miscellaneous Petition in M.P.No.18 of 2019 in O.P.No.347 of 2016 citing a reason that the said Miscellaneous Petition has been filed by the appellants herein after a lapse of three long years from the filing of the Claim Petition, more particularly, when the trial was in progress. He has also cited one of the reasons that M.P.No.18 of 2019 in O.P.No.347 of 2016 has been filed with frivolous reasons and also on vexatious grounds after a lapse of 3 long years from the filing of the Claim Petition and accordingly dismissed the same.

5. I find no infirmity in the order passed by the learned Sole Arbitrator. The reason being that when the claimants/respondents 1 to 4 have filed their Statement of Claim on 10.12.2016 before the learned Sole Arbitrator, Chennai, the Sole Arbitrator is obliged to dispose of the pending Arbitration Proceedings as per the mandate stipulated in Section 29 A of the Arbitration and Conciliation Act, which contemplates that entire arbitration proceedings should be completed within a period of 12 months from the date of receipt of the Statement of Claim. Since entertaining the belated application in M.P.No.18 of 2019 after 3 years would run contrary to the mandate given in Section 29 A of the Act, the learned Sole Arbitrator has rightly refused the same. Therefore, this Court finds no merit whatsoever in the present appeal.

6. In the result, the Civil Miscellaneous Appeal fails and the same is accordingly dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

tsi

To

1. The Sole Arbitrator Mr.L.Yousuf Ali, Madras High Court Arbitration Centre, Madras.

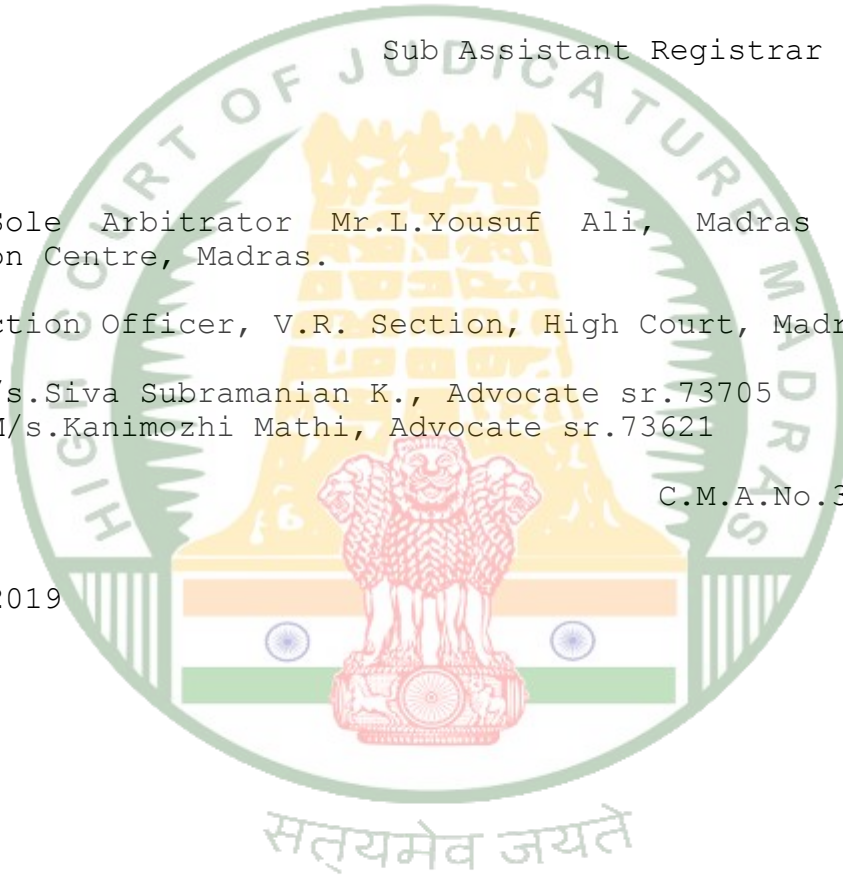
2. The Section Officer, V.R. Section, High Court, Madras.

+lcc to M/s.Siva Subramanian K., Advocate sr.73705

+lcc to M/s.Kanimozhi Mathi, Advocate sr.73621

C.M.A.No.3210 of 2019

svi(co)
nr 21/10/2019



WEB COPY