

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 09.09.2019

Coram

THE HONOURABLE MR. JUSTICE SENTHILKUMAR RAMAMOORTHY

O.P.No.583 OF 2019

and

A.No.5343 of 2019

- 1.Mr.M.Rajamanickam
- 2.Mr.D.Baskaran
- 3.Mr.M.Thiayarajan
- 4.Mr.D.David Jayakumar
- 5.Mrs.Bala Jeyasekaran
- 6.Mr.G.Arulnathan
- 7.Mr.H.Immanuel
- 8.Mr.J.Robinson

.. Petitioners

VS.

- 1.The Arbitration Board,
Rep:Convener
No.9, Arcot Lutheran Church Campus,
Bharathi Road,
Manjakuppam,
Cuddlaore.
2. The Secretary,
Church Board,
No.9, Arcot Lutheran Church Campus,
Bharathi Road,
Manjakuppam,
Cuddalore.
- 3.The Pastor and Election Commissioner,
Broadway Pastorate
No.165, Arcot Lutheran Church,
Broadway, Chennai – 600 108.

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4.The Bishop-President,
Church Board,
No.9, Arcot Lutheran Church Campus,
Bhararathi Road,
Manjakuppam,
Cuddalore

... Respondents

PRAYER:–This Original Petition filed under Section 34 of the Arbitration and Conciliation Act, 1996, to set aside the impugned award dated 09.05.2019 of the 1st respondent and pass such further or others orders as this Court may deem fit and proper in the circumstances of the case.

For Petitioner : Mr.S.Rajmakesh
For R2&R4 : Mr.Srinath Sridevan
For R3 : No appearance

ORDER

This petition is filed to challenge the Arbitral award dated 09.05.2019 of the Arbitration Board constituted by the Arcot Lutheran Church.

2. Heard the learned counsel for the petitioners and the learned counsel for respondents 2 and 4.

3. In spite of service of notice, there was no representation on behalf of the third respondent. The first respondent is the Arbitration Board.

4. The learned counsel for the petitioners referred to the Bye-laws and constitution of the Arcot Lutheran Church. He further referred to the Arbitration clause at Page No.40 of the typed set of papers, wherein it is stipulated that the Arbitration Board shall consist of 5 Arbitrators.

5. He thereafter referred to the award of the Arbitration Board and pointed out that it is evident from the said award that 4 Arbitrators had issued the award.

6. The learned counsel for the second and fourth respondent fairly submitted that the Arbitration Board is required to be a 5 member Board and not a 4 member Board as seen in this case.

7. On examining the records and considering the oral submissions of the learned counsel, it is clear that the impugned award does not satisfy the requirements of the Arbitration and Conciliation Act 1996 (the Arbitration Act), both with regard to the constitution of the Arbitration Tribunal and with regard to the issuance of a speaking order.

8. In specific, Section 10(1) of the Arbitration Act provides that an Arbitral Tribunal is required to be constituted with an odd number of Arbitrators and not an even number. In addition, it is not clear from the Arbitral award as to whether the affected parties were heard and there is no discussion at all as to the contentions of the affected parties or as to the manner in which such contentions were considered and dealt with by the Arbitration Board. Therefore, there is also a violation of Section 31(3) of the Arbitration Act. Hence, the Arbitral award dated 09.05.2019 is liable to be and is hereby set aside.

9. The petitioners are however, granted leave to request for the constitution of an Arbitration Board as per the Bye-Laws of the Arcot Lutheran Church, if required.

10. Accordingly, subject to the observations made above with regard to the constitution of an Arbitration Board as per the Bye-Laws, the impugned Arbitration award dated 09.05.2019 is set aside and this Original Petition is allowed. No costs. Consequently, connected application is also closed.

09.09.2019

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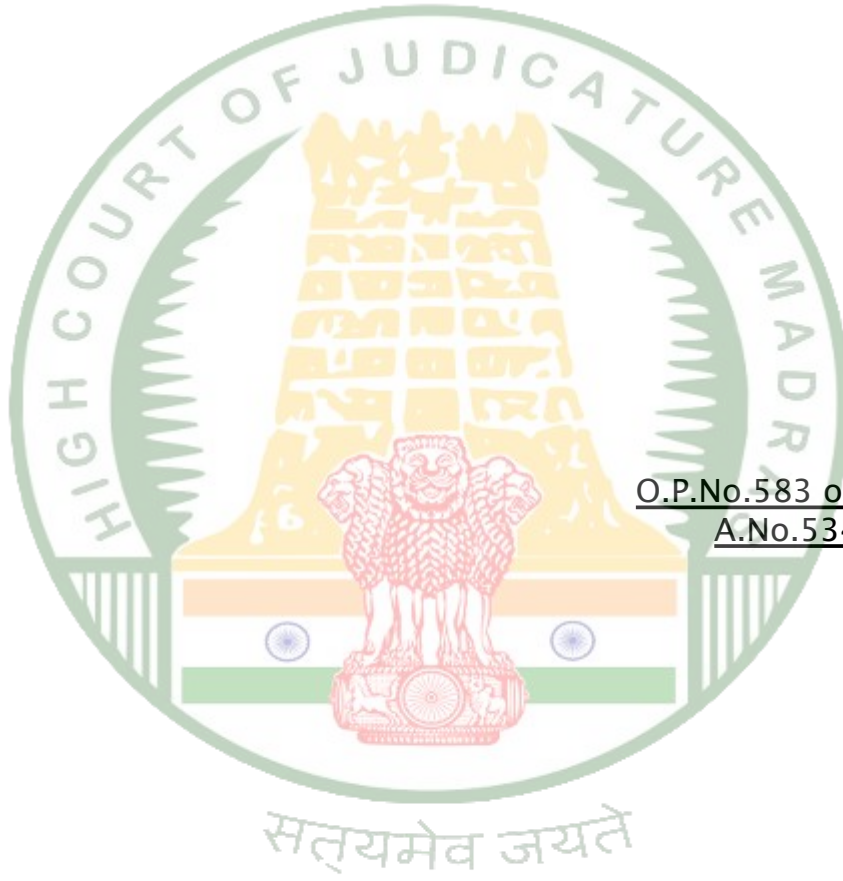
Speaking Order/Non-Speaking Order
Index : Yes/No



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SENTHILKUMAR RAMAMOORTHY,J.,

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