

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.11.2019

CORAM

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

O.P.No.703 of 2019

1. M/s.Lakshmi Estates,
a firm rep. by its
Managing Partner Mrs.L.Bagyalakshmi
Regd. Office at No.AJ-42,
Anna Nagar, Chennai-600 040.
2. M/s.Vijay & Bhaghiya Lakshmi Estates Pvt. Ltd.,
rep. by its Managing Director,
Mr.S.Lakshmipathy,
Regd. Office at No.AJ-42,
Anna Nagar, Chennai-600 040.
3. Ms.Hamsaveni .. Petitioners

Vs.

1. M/s.Sivams Foundation,
rep. by its Proprietrix,
Mrs.Pavithra Koka,
D/o.Late Sambasiva Rao,
D.No.119, Marshalls Road,
Egmore, Chennai- 600 008.

also at 2nd Floor, Bharathi Apartments,
No.11, Ragas Avenue, AI-118, 8th Main Road,
Shanthi Colony, Anna Nagar, Chennai-600 040.

2. S.Lydiamani
3. Pranay Koka
4. Sayathri Devi Bhandari
5. K.Thirugnanam

.. Respondents

* * *

Prayer : Petition filed under Section 11(6) of the Arbitration and Conciliation Act, 1996, praying to appoint an Arbitrator as per clause 22 of the Agreement dated 14.11.2003.

* * *

For Petitioners : Mr.Niranjan Rajagopal
for M/s.G.R. Associates

For Respondents : Mr.S.Ramesh for RR 2 & 3
Mr.T.S.Baskaran for R4
No Appearance for RR 1 and 5

ORDER

This Original Petition is instituted seeking for appointment of a sole arbitrator to resolve the disputes between the parties.

2. There was a Memorandum of Agreement dated 14.11.2003 (MOU) between some of the parties herein and the remaining are the legal heirs of the parties, who were the signatories to the said MOU. There was a dispute between them and they submitted themselves to the arbitration proceedings before the Tribunal constituted by Hon'ble Mr.Justice K.Sampath, a retired Judge of this Court. In the said proceedings, pleadings were completed, issues were framed and examination of witness was also over, whereupon, the learned Arbitrator passed away on 07.12.2016. Hence, the petitioners

attempted to arrive at an amicable solution in vain. They sent a notice dated 19.03.2019 for re-initiation of the arbitration proceedings to the respondent and subsequently, the counsels for the parties agreed to appoint a learned Senior Advocate of this Court as the Sole Arbitrator. For obtaining written consent of the learned counsel for the respondents, a formal communication dated 30.05.2019 was addressed, which yielded no response. Another notice dated 31.07.2019 sent for the very same purpose received no response from the respondents. Thus, the petitioner filed this petition under Section 11(6) of the Arbitration and Conciliation Act, 1996.

3. In this petition, notice was ordered on 16.09.2019. The notice sent to the first respondent returned with an endorsement 'left' and the remaining respondents were served. Despite service of notice, the fifth respondent has chosen not to appear before this Court either in person or through any Advocate.

4. Heard the learned counsel for the petitioners and the learned counsel appearing on behalf of the respondents 2 to 4, who have no objection for appointment of the learned Senior Counsel Mr.S.Parthasarathy as the Sole Arbitrator.

5. Having regard to the aforesaid undisputed facts and the submissions of the learned counsels on either side, Mr.S.Parthasarathy, Senior Advocate of this Court, having office at No.39, Law Chambers, High Court Buildings, Chennai-600 104, is appointed 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, is at liberty to continue the arbitration from where it was left by the erstwhile Arbitrator 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 shall be conducted preferably in the Madras High Court Arbitration Centre and in accordance with the Madras High Court Arbitration Rules. The appointment of the Arbitrator will be subject to the disclosure and declaration made, as per the Sixth Schedule to the Arbitration and Conciliation Act, 1996 coupled with the amendments made therein.

6. The Original Petition is ordered accordingly. The parties shall bear their own costs.

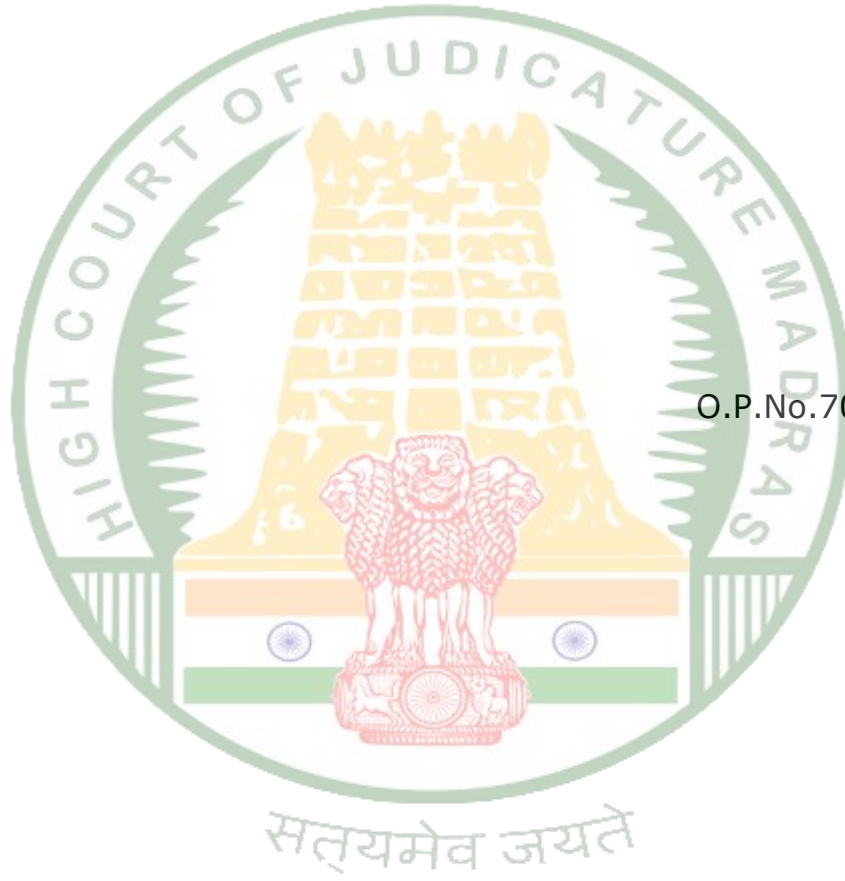
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PUSHPA SATHYANARAYANA, J.

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