

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.01.2019

CORAM

THE HONOURABLE MR. JUSTICE M.GOVINDARAJ

O.P.NOS.1167 AND 1168 OF 2018
AND
O.A.NOS.925, 965 AND 998 OF 2018

O.P.NO.1167 / 2018

M/s.Esplanade - Chennai Flat Owners
 Welfare Association

Rep. by its Secretary G.S.Thiyagarajan
 No.75, Vaidyanathan Street,
 Tondiarpet,
 Chennai - 600 081.

.... Petitioner

Vs.

M/s.Emaar MGF Land Limited

Rep. by its Director

Office at PM Towers

Old No.5, New No.37, Greaves Road,

Chennai - 600 006.

... Respondent

PRAYER: Original Petition filed under Section 11 of the Arbitration and Conciliation Act, 1996, to appoint a Sole Arbitrator to adjudicate the issues / matters pertaining to various aspects / claims of the petitioner association in respect of the premises viz., Esplanade, at No.75, Vaithyanathan Street, Tondiarpet, Chennai - 600 081.

For Petitioner :

Mr.L.Muralikrishnan

For Respondent :

Mr.Kaushik N.Sharma

for M/s.KNS Law Chambers

O.P.NO.1168 / 2018

1.Sathya Narayan Kadel
2.Archana Gupta

.... Petitioners

Vs.

M/s.Emaar MGF Land Limited
Rep. by its Director
Office at PM Towers
Old No.5, New No.37, Greams Road,
Chennai - 600 006.

... Respondent

PRAYER: Original Petition filed under Section 11 of the Arbitration and Conciliation Act, 1996, to appoint a Sole Arbitrator to adjudicate the issues / matters pertaining to various aspects / claims of the petitioner in respect of the premises viz., Esplanade, at No.75, Vaithyanathan Street, Tondiarpet, Chennai - 600 081.

For Petitioner :	Mr.L.Muralikrishnan
For Respondent :	Mr.Kaushik N.Sharma for M/s.KNS Law Chambers

COMMON ORDER

These Original Petitions have been filed by the petitioners seeking to appoint a Sole Arbitrator to adjudicate the issues / matters pertaining to various aspects / claims of the petitioners in respect of the premises viz., Esplanade, at No.75, Vaithyanathan Street, Tondiarpet, Chennai - 600 081.

2. Heard the submissions made on either side and perused the materials available on record.

3. The peculiar circumstances of the case is that the petitioners in O.P.No.1168 of 2018 are individual owners of the Flats developed by the respondent and they have filed another Original Petition viz., O.P.No.1167 of 2018, in the name of the Association, which represents all the flat owners.

4. According to the learned counsel for the respondent, the Original Petition filed by the Association is not maintainable, as there is no contract between the respondent and the Association and there is no arbitration clause exists, to refer the matter for arbitration.

5. However, when the matter is called for hearing today, both the learned counsel agreed that the **Hon'ble Mr.Justice K.N.Basha, Judge (Retired)** be appointed as Sole Arbitrator in both the above said Petitions to adjudicate upon the disputes inter se the parties as the parties in both the Original Petitions are one and the same.

6. Thus, by consensus, I appoint the ***Hon'ble Mr.Justice K.N.Basha, Judge (Retired) residing at Flat No.F-1, "STAR", No.25/1, Dr.Ambedkar Road, (Old ICF Link Road) North Thirumalai Nagar, Villivakkam, Chennai - 600 049, Mobile: 9444454545*** as the sole Arbitrator to enter upon the reference and after issuing notice to the parties and upon hearing them, pass an award as expeditiously as possible within a period of six months from the date of receipt of the order. The learned Arbitrator is at liberty to fix his remuneration as well as schedule of expenses which shall be borne by both parties equally. 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.

7. Further, in order to give quietus to the issue, the petitioner in O.P.No.1167 of 2018 is directed to submit all the construction agreements of the Members of their Association, before the Arbitrator and proceed with the arbitration.

8. Status - quo granted by this Court in O.A.Nos.925, 965, 998 of 2018 shall be maintained till the disposal of the arbitration proceedings.

9. Both the Original Petitions are ordered in the aforesaid terms leaving the parties to bear their own costs. Consequently, connected applications are closed.

29.01.2019

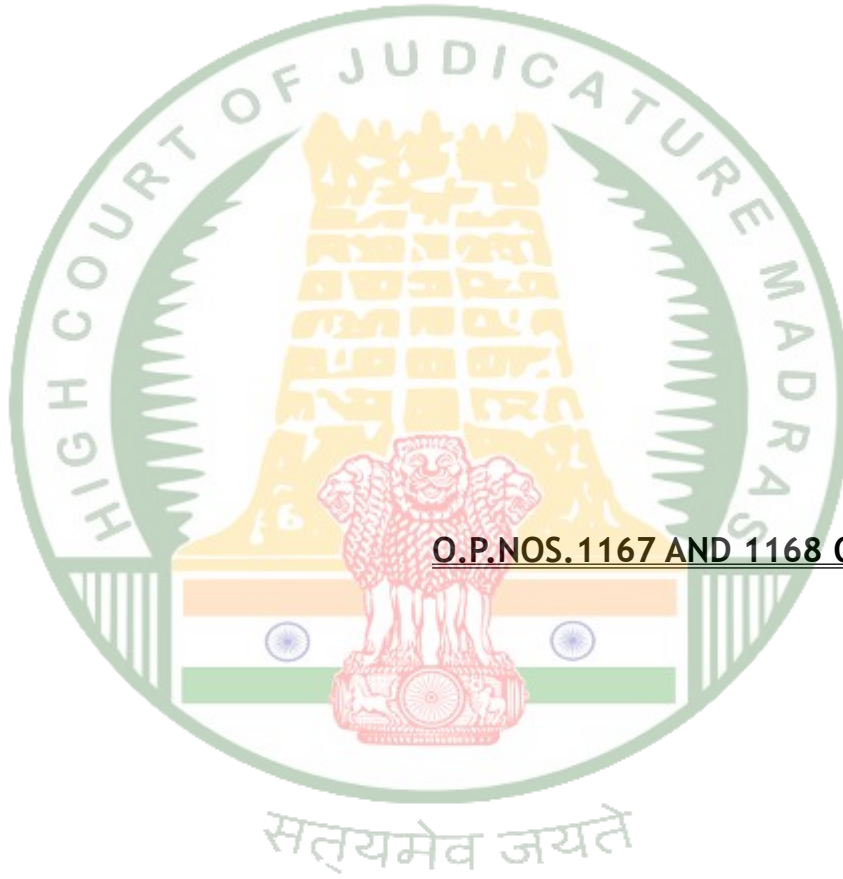
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M.GOVINDARAJ, J.

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O.P.NOS.1167 AND 1168 OF 2018

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