

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 17.09.2020

CORAM

THE HONOURABLE MR.JUSTICE N.SATHISHKUMAR

O.P.No.281 of 2020 and
O.A.No.903 and 904 of 2019

Medall Scans and Labs Private Limited,
No.67, 2nd floor, TNPL Building, Anna Salai,
Guindy, Chennai 600 032.

... Petitioner in
O.P.281 of 2020 and
Applicant in
O.A.No903, 904 of 2019

Vs.

M/s Best Medi Scans,
rep. by its Partners, No.729/1,
Thiruvottriur High road,
New Washermanpet, Chennai 600 081.

... Respondent in
O.P.281 of 2020 and
O.A.No903, 904 of 2019

Prayer in O.P.No.281 of 2020: Petition filed under Order 11(6) of the Arbitration and Conciliation Act, 1996 to appoint an arbitrator, in terms of the agreement dated 03.07.2015 entered into between the petitioner and the respondents, for the purpose of adjudicating upon the disputes that have arisen between the petitioner and the respondents.

Prayer in O.A.No.903 of 2019

Application filed under Section 9(ii) of the Arbitration and Conciliation Act, 1996 to grant an order of interim injunction restraining the respondent, their men, agents, serants or persons acting on its behalf from representing itself and / or doing any act deed or thing that would indicate that it is a licensee or authorized franchisee of the applicant, pending adjudication of disputes between the applicant and the respondent through arbitration.

Prayer in O.A.No.904 of 2019

Application filed under Section 9(ii) of the Arbitration and Conciliation Act, 1996 to grant an order of interim injunction restraining the respondent, their men, agents, servants or persons acting on its behalf from using the applicant's trademark " Medall Care Centre Plus" or any derivate thereof in any manner, pending adjudication of disputes between the applicant and the respondent through arbitration.

For Petitioner/Applicant : Mr.Aishwarya S.Nathan

For Respondent : Mr.V.Manisekaran
represented for other partners
viz. Mr.Ganeshmoorthy and
Mr.B.Ezhilan (not on record)

COMMON ORDER

This petition in O.P.No.281 of 2020 has been filed seeking for appointment of an arbitrator to enter upon the reference and adjudicate the disputes between the parties arising from the agreement dated 03.07.2015.

2. The contention of the petitioner is that a franchise agreement dated 03.07.2015 was entered into between the petitioner and the respondent and a dispute was arose between them with regard to the sharing of the revenue and that despite the petitioner invoked the arbitration proceedings, the respondent has not shown any interest to proceed further. Hence this petition.

3. Mr.V.Manisekaran, learned counsel representing for the other partners namely Mr.Ganeshmoorthy and Mr. B.Ezhilan submitted that the partner shown in the cause title is a working partner, however, other partners are there, who are interested in the firm and hence, they should be made as parties to the petition and hence prays to implead them.

4. The learned counsel appearing for the petitioner submitted that the other partners may not be impleaded since the respondent can file a claim petition including all the partners, so that the interest of the partnership firm will be protected.

5. Considering the facts and circumstances of the case, this court is of the view that application for impleading the other partners is not required in this petition. However, in the claim application, they can be made as parties.

6. Both side counsels have no objection for appointment of Mr.Sarath Chandran, as Arbitrator. **Hence, the petitioner is directed to implead all the partners of the respondent firm as partners in the proceedings before the Arbitrator.**

7. Accordingly, by consent of both the counsels, it is ordered as follows:

i) That Mr.Sharath Chandran M.S., Gokulam, No.3, Gopala Menon Street, Vepery, Chennai-600 007, be and is hereby appointed as Arbitrator to enter upon the reference and adjudicate the disputes inter se the parties.

ii) That the learned Arbitrator appointed herein, shall after issuing notice to the parties 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.

iii) That the learned Arbitrator appointed herein shall be at liberty to fix his remuneration and other incidental expenses, which shall be borne by the parties equally.

N. SATHISHKUMAR, J.
mst

**8. The applicant is at liberty to approach the
Arbitrator for interim measure, if any.**

9. The Original Petition in O.P.No.281 of 2020 is ordered accordingly. Consequently, the Original applications in O.A.No.903 of 904 of 2019 are closed. No costs.

17.09.2020

Index: Yes/No
Internet: Yes/No
Speaking/non speaking Order
mst

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**O.P.No.281 of 2020 and
O.A.No.903, 904 of 2019**