

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 24.09.2020

CORAM

THE HONOURABLE MR.JUSTICE N.SATHISHKUMAR

O.A.No.271 of 2020

1. Mr.N.R.Dhanapalan
2. Mrs. Violet Dhanapalan ... Applicants

Vs.

1. M/s Asvini Foundations, Partnership Firm,
Rep. by its Partner Mr.S.Sivagurunathan,
Palani Murugan Towers II Floor, No.46,
Mount Poonamallee Road, Nandambakkam,
Chennai 600 089.

2. Mr. S.Sivagurunathan,

3. Mrs. Aarti Razee,

4. Mr. Narendra Srisrimal

5. Mr. Surendra Srisrimal

6. Mr. Sandeep Mehta ... Respondents

Prayer : Petition filed under Order XIV Rule 8 of the High Court O.S. Rules 1956 read with Section 9(II)(a)(d) of the Arbitration and Conciliation Act, 1996 to pass an order of interim injunction

restraining the respondents, their men or agents or henchmen and persons claiming through them from in any manner dealing with the scheduled properties or creating any encumbrance by alienating or creating any third party rights over the properties more fully described in the schedule mentioned in the Judges summon, situated within the registration district of South Chennai and Sub Registration District of Avadi.

For Applicants : Mr.DR. Ravichandran

For Respondents : Mr.Balachandar (for R1 & R2)

Mr. Sirish Chowdhary

for Ms.Veenasuresh (for R3)

Mr.S.Balasubramaniam (for R4 & R6)

ORDER

This petition has been filed seeking for interim injunction restraining the respondents, their men or agents or henchmen and persons claiming through them from in any manner dealing with the scheduled properties or creating any encumbrance by alienating or creating any third party rights over the properties more fully described in the schedule mentioned in the Judges summon, situated within the registration district of South Chennai and Sub Registration District of Avadi.

2. The learned counsel appearing for the respondents R1, R2 and R3 submitted that already a dispute was arose between partners of the partnership firm with regard to the partnership deed and to resolve the same, **Mr. Justice K. Govindarajan (Retd.)** was appointed by this court in OP No.1162 of 2018 and hence, the same Arbitrator may be appointed in this matter, as the consensus has arrived between the parties.

3. Though the dispute in this matter is with regard to the construction of the residential building, which is different from the above matter, the applicant has entered into a joint venture agreement to develop the property in to the residential building with the above said partnership firm/first respondent, in which, the other respondents herein are the partners.

4. Such being the matter, since already a dispute was arose between the partners of the first respondent partnership firm with regard to the partnership deed and an Arbitrator was appointed by this court to resolve the disputes, and the above said partnership firm and its partners are the parties (respondents) to this petition, this court is of the view that the same Arbitrator can be appointed in this matter and the parties can agitate their dispute before Arbitrator.

5. The learned counsel appearing for the applicant has no objection to refer the matter before the Arbitration and to appoint Mr.Justice K.Govindarajan (Retired), as Arbitrator.

6. It is submitted that the 5th respondent herein is died. ***Such view of the matter, the legal representatives of the 5th respondent shall be impleaded as parties in the proceedings before the Arbitrator.***

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

i) That ***Mr.Justice K.Govindarajan (Retd.) residing at No.5, Justice Ramanujam Street, Malavya Avenue, Thiruvannmiyur, Chennai – 600 041, Mobile:9444403403*** 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.

8. The interim order already granted by this court shall continue till the claim application filed before the Arbitral Tribunal. The applicant shall work out his remedy under Section 17 of the Arbitration and Conciliation Act before the Arbitrator.

9. The Original Petition is ordered accordingly, leaving the parties to bear their own costs.

21.09.2020

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

Copy to

Mr.Justice K.Govindarajan (Retd.),

No.5, Justice Ramanujam Street,

Malavya Avenue, Thiruvannmiyur,

Chennai 600 041.

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N. SATHISHKUMAR, J.

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