

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 30.09.2020

CORAM

THE HONOURABLE MR.JUSTICE N.SATHISHKUMAR

**O.P.No.411 of 2020 and
O.A.No.334 of 2020**

Janaki

... Petitioner/Applicant in
both original petition and
original application

Vs.

Aaradhana

... Respondent in
both original petition and
original application

Prayer in O.P.No.411 of 2020: Petition filed under Section 11(6) of the Arbitration and Conciliation Act, 1996 to appoint a Sole Arbitrator to enter upon reference and adjudicate the disputes between the petitioner and the respondent arising under the agreement dated 13.03.2019.

Prayer in O.A.No.334 of 2020: Application filed under Order XIV Rule 8 of the O.S. Rules r/w Section 9 of Arbitration and Conciliation Act, 1996 to grant ad-interim injunction restraining the respondents, their men, agents or servants or any other person claiming through

them from in any manner disturbing the ongoing construction works in the property of the applicant at Plot No.121, Nemilicherry Village, Tambaram Taluk admeasuring about 2340 sq.ft. pending disposal of the arbitral proceedings.

For Petitioner/Applicant : Mr.S. Ramesh

For Respondent : Mr.J.Kiran Kumar

ORDER

The original petition has been filed seeking for appointment of a sole Arbitrator to enter upon reference and adjudicate the disputes between the petitioner and the respondent arising under the agreement dated 13.03.2019. The Original Application has been filed for seeking interim injunction restraining the respondent from disturbing the ongoing construction works in the property.

2. The contention of the petitioner is that she entered in to an agreement for construction of residential house dated 13.03.2019 with the respondent and that and it was agreed by the respondent to construct the house for the petitioner, within six months. However, the respondent has not completed the construction in time, as agreed and also not allowed the petitioner to construct the building further by her self. Hence, this petition has been filed for appointment of Arbitrator.

3. Though the respondent denied the averments in the petition, he has no objection for appointment of an Arbitrator. His only grievance is that if the work is allowed to be continued, the Arbitrator may not be in a position to assess the nature of the work done by the respondent and hence he prayed that the work has to be stayed.

4. At this stage, the learned counsel appearing for the applicant submitted that the applicant has continued the construction work from June 2020 and hence, an Advocate Commissioner may be appointed to visit the suit property immediately with the assistance of the Civil Engineer, so that, they can file a report before the Arbitrator Tribunal indicating the status of the building and the nature of the work completed till the date of visiting of the Advocate Commissioner. For the same, the learned counsel appearing for the respondent has no objection.

5. In such view of the matter, in order to set right the controversy between the parties, this court is inclined to appoint Ms.Rohini Ravikumar, Advocate, residing at No.11, Third Avenue Besant Nagar, Chennai – 600 090, Phone No.9710294377 as the Advocate Commissioner to inspect the property with the assistance of a Civil Engineer and file a report before the Arbitrator, appointed by this court. The Advocate Commissioner shall inspect the property within two days and her remuneration is fixed at Rs.25,000/-, which

shall be shared by both the parties equally. Further, the expenses for the Civil Engineer also shall be shared equally by both the parties.

6. It is to be noted that since the Commissioner has to inspect the property, within a week, the petitioner is directed not to carry out work in the property till the date of visit of the Advocate Commissioner and after the visit of the Advocate Commissioner, it is open to the petitioner to complete the remaining construction. In the meantime, if the construction is allowed to be carried out, the same will cause serious impact on the entire building.

7. The learned counsel appearing for the petitioner and the respondent have no objection to appoint Mr.J.Ravishankar, Advocate as an Arbitrator to resolve the dispute between them under the agreement.

8. As per the agreement dated 13.03.2019, the parties have agreed to refer the matter to the Arbitrator, in the event of any dispute arise between them. Since there is a dispute arose between the parties with regard to the construction of the building, and also the parties are governed by the clauses in the Agreement and with consent of both sides, **Mr.J.Ravishankar, Advocate** is appointed as Arbitrator to enter

upon the reference.

9. Accordingly, it is ordered as follows:

i) That Mr.J.Ravishankar, Advocate, No.88, T-Block, 5th Main Road, Anna Nagar, Chennai – 600 040 Mobile No.9003071939 be and is hereby appointed as the Arbitrator to enter upon the reference and adjudicate the disputes inter se the parties.

ii) That the learned Arbitrator appointed herein, shall after filing of the report filed by the Advocate Commissioner and 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 report from the Advocate Commissioner.

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.

10. It is open to the applicant to seek interim relief if any, before the Arbitrator and other disputes can also be agitated by both the parties before the Arbitrator.

11. The Original Petition is ordered accordingly and the Original Application is closed, leaving the parties to bear their own costs.

30.09.2020

Index: Yes/No
Internet: Yes/No
Speaking/non speaking Order
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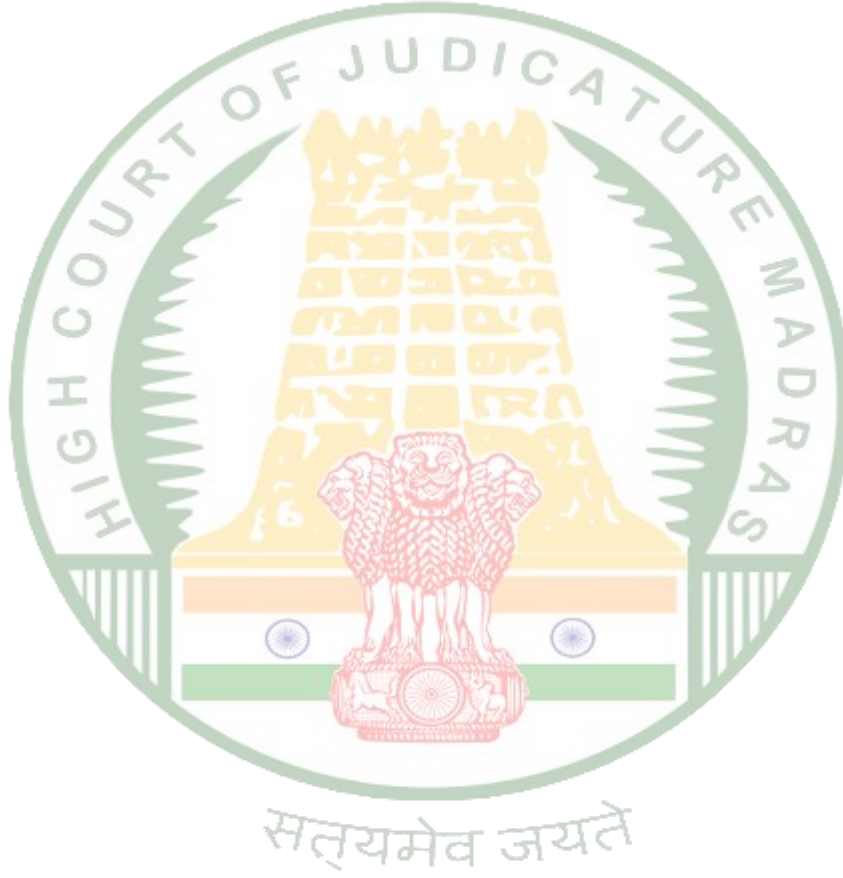
Copy to

1. Mr. J.Ravishankar,
Advocate
No.88, T-Block, 5th Main Road,
Anna Nagar, Chennai – 600 040
Mobile No.9003071939

2. Ms. Rohini Ravikumar,
Advocate, residing at No.11,
Third Avenue Besant Nagar,

*O.P.No.411 of 2020 and
O.A.334 of 2020*

Chennai – 600 090,
Mobile No.9710294377

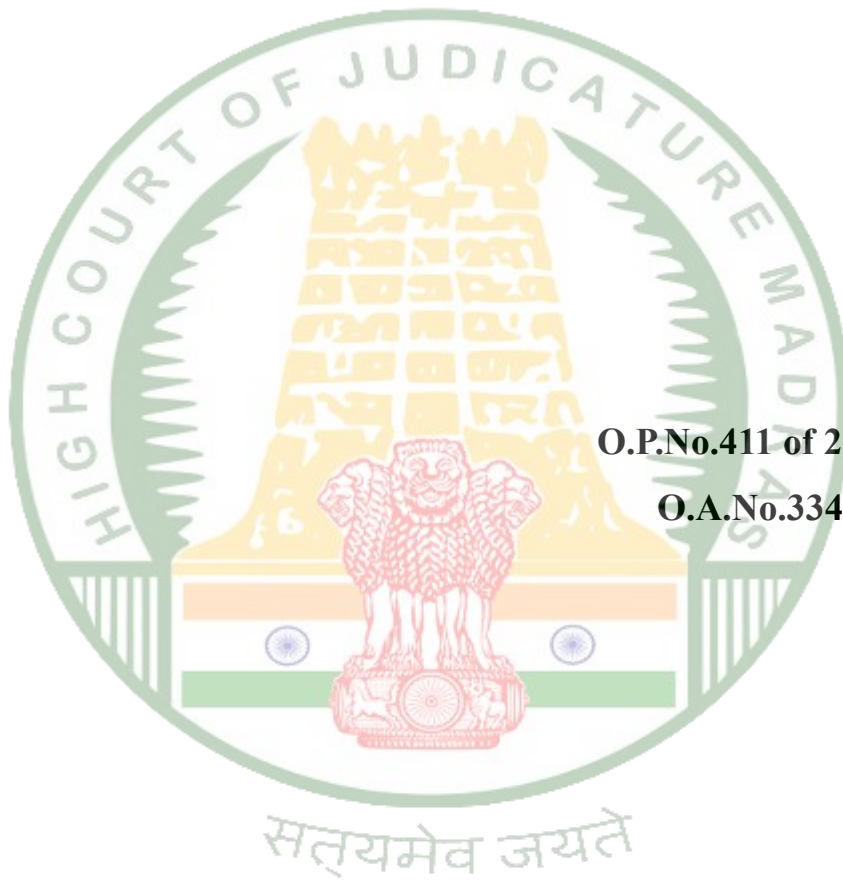


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N. SATHISHKUMAR, J.

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