

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.01.2020

C O R A M

THE HONOURABLE Ms.JUSTICE P.T.ASHA

O.P.No.976 of 2019
and
A.Nos.9138 and 9141 of 2019

S. Vijayashanthi
W/o.M.V.Sreenivasa Prasad,
16, Parthasarathypuram,
T. Nagar,
Chennai – 600 017,
Rep. by his Power Agent
Mr.G.V.H. Prasad

...Petitioner/Respondent

V.

Kruthi Mehta

...Respondent/Claimant

Prayer: Original Petition filed under Section 34(iii) of the Arbitration and Conciliation Act, 1996 praying to set aside the Award dated 18.04.2015 passed by the sole Arbitrator in ARB/KM/M/04 of 2014.

For petitioner : Mr.D. Nellaiappan

For Respondent : Mr.R. Palaniandavan

ORDER

The challenge to the arbitral proceedings on the ground that the respondent has not been served and without completing the service the learned Arbitrator has directly ordered service by Substituted Service by effecting publication in one issue of the Tamil daily, Maalaichudar, dated 01.09.2014. Even according to the Award only one notice dated 24.07.2014 has been sent. The Award does not reflect the date on which notice has been served and to which of the respondent notice has been served.

2.In view of the above, the Arbitral Award deserves to be set aside on the ground that no proper notice has been issued to the respondent as contemplated under Section 24(2) of the Act and is therefore a ground for challenge under Section 34(2)(a)(iii) of the Act.

3.The learned counsel for the respondent fairly conceded that it is only one notice that was sent to the petitioners and he has no objection to this Award being set aside and fresh arbitration proceedings be initiated between the parties.

4.Today, when the matter was called, the learned counsels would submit that they have agreed to the appointment of Mr.S.L. Sudarsanan, Advocate, (Enrol.No.Ms.418/1996) may be appointed as an Arbitrator to arbitrate the dispute between the parties.

5.In the result, the Award dated 18.04.2015 in Arbitral Case No. ARB/KM/M/04 of 2014 is set aside and the parties are referred to fresh arbitration before the sole Arbitrator Mr.S.L. Sudarsanan, Advocate, (Enrol.No.Ms.418/1996), No.15, Law Chambers, Madras High Court, Chennai - 600 104, Phone No.: 9840742251, Res:No.16, Agasthiya Nagar, Chennai, Office: Halls Road, Kilpauk, Chennai - 600 010.

6.The Arbitrator shall endeavour to conclude the arbitral proceedings within a period of four months from the date of receipt of a copy of this order. The Arbitrator shall serve the respective parties and counsels simultaneously. The service on either the party or the counsel will be deemed to be service on the other.

Accordingly, this Original Petition is allowed. The original records relating to the earlier arbitral proceedings shall be handed over to the newly appointed Arbitrator. No costs. Consequently, connected applications are closed.

20.01.2020

Internet : Yes/No
Index :Yes/No
Speaking / Non-Speaking
mps

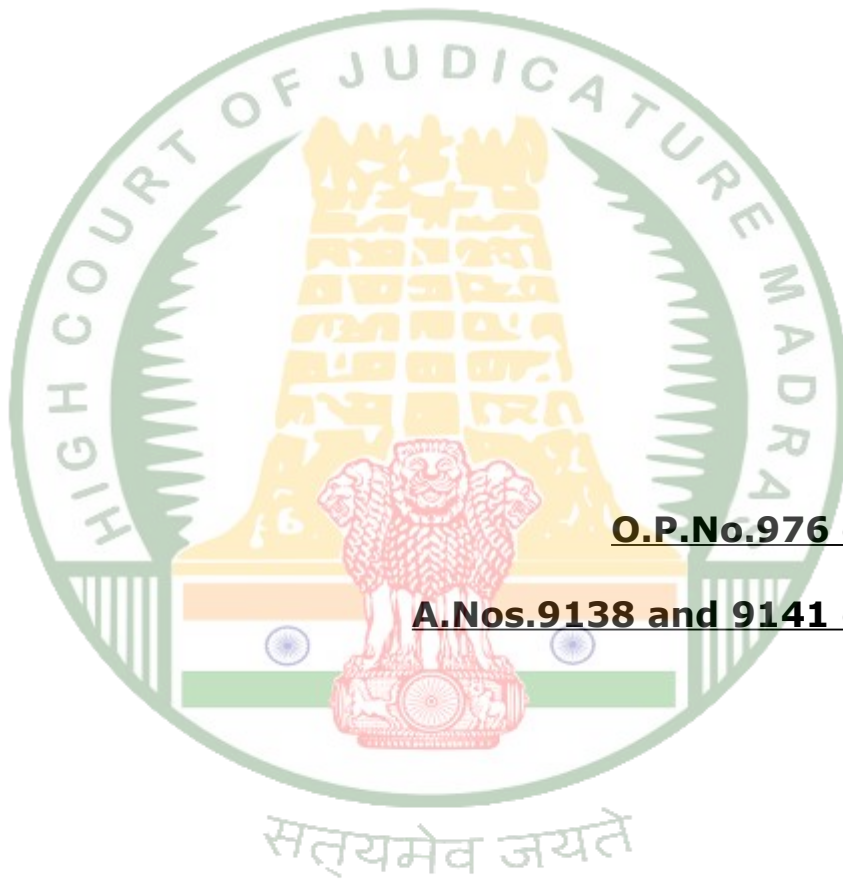
सत्यमेव जयते

WEB COPY

O.P.No.976 of 2019

P.T. ASHA. J,

mps



O.P.No.976 of 2019
and
A.Nos.9138 and 9141 of 2019

WEB COPY

20.01.2020