

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.04.2021

CORAM:

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

C.M.A.No.1945 of 2013

and

M.P.No.1 of 2013 and

M.P.No.1 of 2014

M.Kasilingam

...Appellant/Applicant

Vs.

1.R.Ranikumari

2.A.Kanchana

3.S.Mahalakshmi

4.D.Srinivasan

5.G.Nandhini

6.R.Anitha

...Respondents/Respondents

(R5 & R6 impleaded as party respondent. Vide order of Court dated 14.08.2013 made in M.P.Nos.2 & 3 of 2013 in CMA.No.1945 of 2013)

PRAYER : Civil Miscellaneous Appeal is filed under Order 43 rule 1(r) of Civil Procedure Code, prayed to set aside the order of the learned District Judge, Coimbatore dated 03.01.2013 in A.O.P.No.17 of 2012.

For Appellant : Mr.T.R.Rajagopalan

For Respondents

For R1 : Mr.M.Sriram

For R2 & R3 : A.Muthukumar No Appearance

For R5 & R6 : Mr.Vijayakumar No Appearance

For R4 : Mr.P.Valliappan

JUDGMENT

The appellant herein is the applicant in A.O.P.No.17 of 2012 filed against the respondents under Section 9 of Arbitration and Conciliation Act seeking an order of injunction restraining the respondent from alienating the petition mentioned property(ies) till the completion of Arbitration Proceedings.

2. On hearing both sides the said petition was dismissed on merits before the learned District Judge, Coimbatore dated 03.01.2013. Aggrieved by the order the appellant preferred this appeal.

3. The question of law that arise for consideration is as to

"Whether the trial Judge erred in dismissing the petition without appreciating the facts and circumstances of the case?"

4. At the time of the arguments, both the counsel fairly admits that after filing of the CMA, a retired District Judge was appointed as a sole Arbitrator, in order to decide the issues between the parties and to pass award expeditiously. Now before the Arbitrator both the parties appeared and submitted their arguments.

5. But the learned counsel for the appellant submitted that the Sole Arbitrator has to consider all the issues arising in O.P.No.17 of 2012 independently, without taking into account any of the findings made by the PDJ while passing the order under Section 9 of the petition.

6. The learned counsel for the respondents raised objection and submitted that in order to give finding with regard to the relief of temporary injunction the trial Judge made observation with regard to certain facts of the case which are necessary to decide the relief claimed in the interim application.

7. Since the Arbitrator was appointed and arbitration proceedings also initiated the relief claimed under Section 9 has become infructuous and the parties at liberty to get any interim relief before the Arbitrator.

8. Therefore, with the above observation this Civil Miscellaneous Appeal is dismissed as infructuous. Consequently connected Civil Miscellaneous petitions are closed. No Costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To
The District Judge
Coimbatore.

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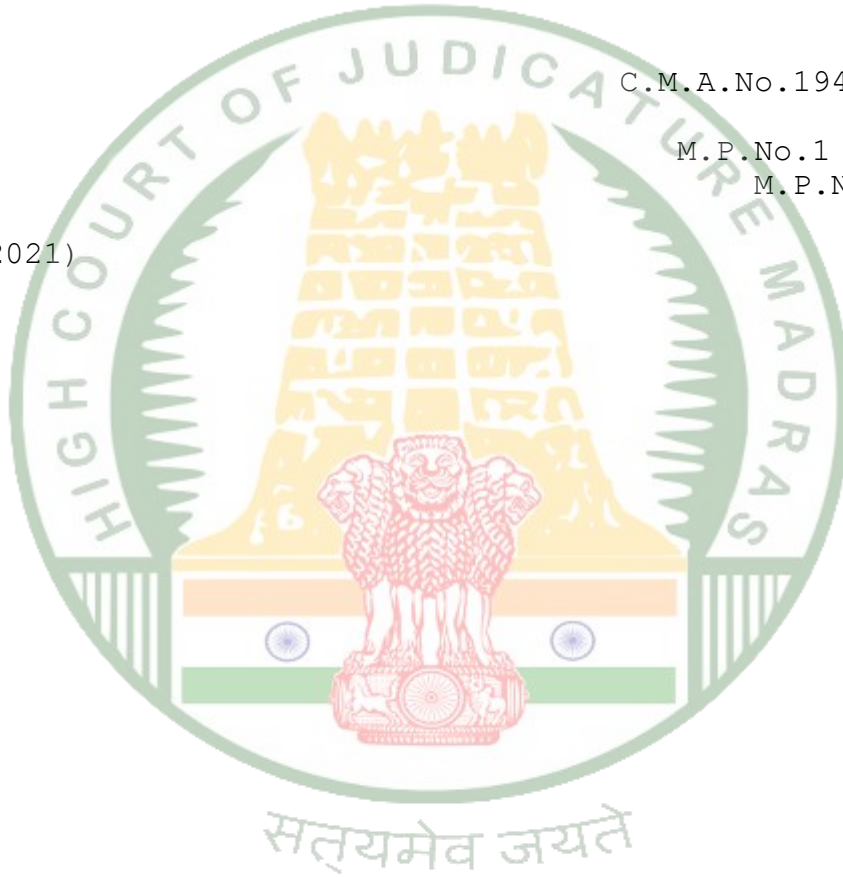
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The Section Officer,
VR Section
High Court
Madras

+1 cc to Mr.A.Muthukumar, Advocate, SR.NO.21786
+1 cc to Mr.C.V.Vijayakumar, Advocate, SR.NO.21832
+1 cc to Mr.M.Sriram, Advocate, SR.NO.22232
+1 cc to Mr.P.Valliappan, Advocate, SR.NO.21724

C.M.A.No.1945 of 2013
and
M.P.No.1 of 2013 and
M.P.No.1 of 2014

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