



WEB COPY

1

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

TUESDAY, THE 24th DAY OF AUGUST 2021

THE HON'BLE MR. JUSTICE N.SATHISH KUMAR

O.P. No.202 of 2021

and

A.Nos.798 and 802 of 2021

O.P. No.202 of 2021

In the matter of Arbitration and
Conciliation Act, 1996.

and

In the matter of Arbitration of dispute
between G.Natesanand M/s.Golden
Fish mean and Fish Oil Company.

1.Mr.T.Ravichandran
S/o.M.Thangavel,
No.260-E, Thiruchengode Road,
Namakkal-637001.

2. N. Murugesan
S/o.Nallathambi,
No.252, K.K.P.Street, A.S.Pettai,
Namakkal 637001.

3. P. Nepolian
S/o.Paneerselvam,
29/A, Pensioner Street,
Cuddalore Port,
Cuddalore 607003.

... Petitioners

Versus

1. Mr.S.G.Natesan
S/o. Gurusamy Gounder,
Door No.8/1, Perumal Kovilmedu,
Puthusathiram Taluk,
Namakkal District.

2. P.Dinesh Kumar, Arbitrator,



No. 1, 1st floor, Jagadambal Colony,
2nd Street, Royapettah,
Chennai – 14.

... Respondents

Original Petition praying that this Hon'ble Court be pleased to

i) Terminate the mandate of the arbitrator, the 2nd respondent herein,
in the arbitration proceedings initiated by the 1st respondent against the
petitioners herein

ii) Award costs in favour of the petitioners.

A.Nos.798 and 802 of 2021

In the matter of Arbitration and
Conciliation Act, 1996.

and

In the matter of Arbitration of dispute
between G.Natesanand M/s.Golden
Fish mean and Fish Oil Company and
3 Ors

1.Mr.T.Ravichandran
S/o.M.Thangavel,
No.260-E, Thiruchengode Road,
Namakkal-637001.

2. N. Murugesan
S/o.Nallathambi,
No.252, K.K.P.Street, A.S.Pettai,
Namakkal 637001.

3. P. Nepolian
S/o.Paneerselvam,
29/A, Pensioner Street,
Cuddalore Port,
Cuddalore 607003.

... Petitioners

Versus

1. Mr.S.G.Natesan
S/o. Gurusamy Gounder,
Door No.8/1, Perumal Kovilmedu,



Puthusathiram Taluk,
Namakkal District.

WEB COPY

2. P.Dinesh Kumar, Arbitrator,
No. 1, 1st floor, Jagadambal Colony,
2nd Street, Royapettah,
Chennai – 14

. . . Respondents

A.No.798 of 2021

Application praying that this Hon'ble Court be pleased to stay the arbitration proceedings initiated by the 1st Respondent between the Applicants and the 1st Respondent pending disposal of the Original Petition.

A.No.802 of 2021

Application praying that this Hon'ble Court be pleased to Direct the 1st respondent to produce the original alleged loan agreement dated 02.06.2014 pending disposal of the Original Petition.

This Original Petition along with these Applications coming on this day before this court for hearing in the presence of Ms.A.Sella Visalakshi advocate for the petitioners in O.P.No.202 of 2021 and for the Applicants in A.Nos.798 and 802 of 2021 and Mr.C.Veraraghavan, Advocate for the respondents in O.P.No.202 of 2021 and A.Nos.798 and 802 of 2021 and upon reading the petition and the affidavit of N.Murugesan and the Counter Affidavit of Mr.S.G.Natesan filed in O.P.No.202 of 2021 and the Judges Summons and the Affidavit of N.Murugesan filed in A.Nos.798 and 802 of



it is ordered as follows:-

WEB COPY

That Mr.S.Arjun Suresh residing at (Enrol.No.Ms.1062/04) New No.54, 3rd Main Road, Gandhinagar, Adyar, Chennai –600020 Mobile No: 9789971118 be and is hereby appointed as a Sole Arbitrator to enter upon reference and adjudicate the matter.

2) 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 a copy of this order.

3) That the learned Sole Arbitrator appointed herein shall fix his fees and other incidental charges, and the same shall be borne by the parties equally.

4) That the A.Nos.798 and 802 of 2021 do stand closed.

5) That both parties hereto shall bear their own costs.

WITNESS THE HON'BLE MR. JUSTICE SANJIB BANERJEE, CHIEF JUSTICE, HIGH COURT AT MADRAS AFORESAID, THIS THE 24th DAY OF AUGUST 2021.

Sd./-

ASSISTANT REGISTRAR (O.S.II)

//Certified to be true copy//

Dated at Madras this the day of 2021.

COURT OFFICER(O.S.)

From 25th Day of September 2008 the Registry is issuing certified copies of the Orders/Judgments/Decrees in this format.



KY

20.09.2021

WEB COPY

5

O.P.No.202 of 2021
and
A.Nos.798 and 802 of 2021

ORDER

DATED: 24.08.2021

THE HON'BLE MR. JUSTICE
N.SATHISH KUMAR

FOR APPROVAL: 30.09.2021

APPROVED ON : 30.09.2021

Copy to:

Mr.S.Arjun Suresh
Arbitrator,
residing at (Enrol.No.Ms.1062/04)
New No.54, 3rd Main Road,
Gandhinagar, Adyar,
Chennai –600020
Mobile No: 9789971118.



WEB COPY

6

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 24.08.2021

CORAM:

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

O.P. No.202 of 2021
and Application Nos.798 and 802 of 2021

1.Mr.T.Ravichandran

2. N. Murugesan

3. P. Nepolian

. . . Petitioner

Versus

1. Mr.S.G.Natesan

2. P.Dinesh Kumar, Arbitrator,
No. 1, 1st floor, Jagadambal Colony,
2nd Street, Royapettah,
Chennai – 14

. . . Respondent

PRAYER : Petition filed under Section 14 of the Arbitration and Conciliation Act, 1996 to terminate the mandate of the arbitrator, the 2nd respondent herein, in the arbitration proceedings initiated by the 1st respondent against the petitioners herein and award costs in favour of the petitioners.

For Petitioner : A. Sella Visalakshi

For Respondent : Mr.C.Veeraraghavan

ORDER



arbitrator, the 2nd respondent herein, in the arbitration proceedings initiated by the 1st respondent against the petitioners herein and award costs in favour of the petitioners.

2. The main contention of the learned counsel for the petitioners is that the Arbitrator was unilaterally appointed. The learned counsel appearing for the petitioners further submitted that there was no loan agreement what so ever existing between the parties, whereas only investment agreement has been made between the partners. Since the invocation of arbitration itself is not according to law, terminate the mandate of the Arbitrator does not arise at all.

3. Though several grounds have been raised in the petition, the learned counsel for the first respondent submitted that there is an agreement between the parties and the petitioners had availed loan. Now, in order to protract the proceedings, they had filed this original petition. At any event, learned counsel for the first respondent submitted that there is no objection for appointing an another arbitrator.

4. The Agreement dated 02.06.2014 executed by the Firm and the first respondent herein, wherein, the petitioners are the partners of the firm, which is not in dispute. When there is an existence of agreement, this Court

cannot go into validity of the same. It is the contention of the learned



counsel for the petitioners that they have not signed any agreement. Such a plea can be canvassed only before the Arbitral Tribunal. The very appointment of the second respondent is not a fair procedure, as per the judgment of ***PERKINS EASTMAN ARCHITECTS DPC & ANR Vs. HSCC (INDIA) LTD (2019 SCC ONLINE SC 1517)***. Hence, the entire proceeding has to be set aside.

5. Having regard to the fact that there is an agreement entered between the parties and further, there is no dispute with regard to certain payments and also considering the fact that the learned counsel appearing for the first respondent has no objection for appointing another Arbitrator, this Court is of the view to appoint Mr.S.Arjun Suresh (Enrol.No.Ms.1062/04) as an Arbitrator to arbitrate the matter.

6. Accordingly, this Arbitration Original Petition is ordered as follows:

- i) that Mr.S.Arjun Suresh residing at (Enrol.No.Ms.1062/04) New No.54, 3rd Main Road, Gandhinagar, Adyar, Chennai –600020 Mobile No: 9789971118 is appointed as a Sole Arbitrator to enter upon reference and adjudicate the matter.



WEB COPY

ii] The learned sole 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] The learned sole Arbitrator appointed herein shall be paid fees and other incidental charges, fixed by him and the same shall be borne by the parties equally.

7. This Arbitration Original Petition is ordered accordingly, leaving the parties to bear their own costs. Consequently, connected applications are closed.

Sd./-N.S.K.J.,
24.08.2021

//Certified to be true copy//

Dated at Madras this the day of 2021.

COURT OFFICER(O.S.)

From 25th Day of September 2008 the Registry is issuing certified copies of the Orders/Judgments/Decrees in this format.