

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

FRIDAY, THE 12TH DAY OF MARCH 2021

THE HON'BLE MS. JUSTICE P.T.ASHA

A.No.1039 of 2021

and

O.P. No.530 of 2020

In the matter of Arbitration and
Conciliation Act, 1996

and

In the matter of dispute between the
partners of M/s.S.Lakshmi
Agencies a Partnership Firm to
appoint a Sole Arbitrator

1. M/S.S.LAKSHMI AGENCIES,
A REGISTERED PARTNERSHIP FIRM,
REP.BY ITS PARTNER T.ANBUCHEZHIAN,
No.4, Mariamalai Adigal Salai,
Puducherry 605 001

2. T.ANBUCHEZHIAN,
No.37, Othaivada Street,
Mudaliarpet,
Puducherry 605 004

..Petitioners

-Vs-

MRS.C.U. SEETHALAKSHMI,
W/o. C.R.Umapathy,
No.18, 1st Cross, Anna Nagar,
Puducherry 605 005

..Respondent

O.P.No.530 of 2020:

Original Petition praying that this Hon'ble Court be pleased to appoint a Sole Arbitrator to adjudicate the claims of the Respondent alleged to have resigned from the partnership firm and also to resolve the problems created by the Respondent in stopping the day to day activities of the 1st Petitioner's Partnership Firm under the Arbitration and Conciliation Act, 1996.

b. For the cost of the petition.

A.No.1039 of 2021:

MRS.C.U. SEETHALAKSHMI,
W/o. C.R.Umapathy,
No.18, 1st Cross, Anna Nagar,
Puducherry-605 005

..Applicant/Applicant/Respondent

-Vs-

1. M/S.S.LAKSHMI AGENCIES,
A REGISTERED PARTNERSHIP FIRM,
REP.BY ITS PARTNER T.ANBUCHEZHIAN,
No.4, Mariamalai Adigal Salai,
Puducherry - 605 001

2. T.ANBUCHEZHIAN,
No.37, Othaivadai Street,
Mudaliarpeta,
Puducherry 605 004

..Respondents/Respondents/Petitioners

Application praying that this Hon'ble Court be pleased to
 Condone the delay of 24 days in filing the application to set aside the ex-
 parte order dt 07.01.2021 in O.P.No.530/2020.

These application and Original Petition are coming on this day
 before this court for hearing, the court made the following order:

The above application is filed to condone the delay of 24 days in
 filing the application to set aside the ex parte order passed by this Court for
 appointing an Arbitrator.

2. The applicant has stated as follows in the affidavit filed in
 support of the application:

*" 5. Hence in between the illness and
 age related ailments, with the only support of my
 husband, I have made arrangements to execute a
 vakalat and sent across to my counsel. The vakalat
 was also presented in time. But procedural lapses
 prevented the case being addressed on the day
 when listed for passing orders.*

*7. It is submitted that in due regard to
 the notice issued by the Arbitrator, I have marked*

my appearance through my counsel on the notified date. However, in view of the fact that the appointment by an order of this Court is in absence of the consideration of true facts and circumstances and more particularly, when the said order is detrimental to my interest, I am before the Hon'ble Court for certain discretionary reliefs. My non-appearance on 04.01.2021 and 07.01.2021 in the above OP proceedings is neither willful nor wanton and extremely due to the circumstances narrated herein above. Unless the said ex-parte order is re-called and an opportunity to contest the case on merits is granted to me, I will be put to serious loss and hardship.

8. It is further submitted that the knowledge about the order referred herein above in the OP came to be informed on 22.02.2021 when the notice of the Arbitrator was delivered to me."

3. A reading of the above does not spell out the reasons for the non-appearance of the counsel on 07.01.2021 despite the fact that both the name of the applicant as well as her counsel had been displayed in the cause list for the day.

4. The affidavit sworn to by the applicant would also not spell out how she is prejudiced by the appointment of the arbitrator. Admittedly, the applicant and the respondent herein were partners and disputes have arisen between them on account of the applicant writing to the bank that she has resigned from the partnership. The Partnership Deed dated 03.10.2011 contemplates resolution of disputes through arbitration.

5. It is also informed that the parties are now before the learned Arbitrator.

6. Considering the above, there is no merit in the application. The application is therefore dismissed. No costs.

Sd/P.T.A.J.
12.03.2021

//Certified to be a true copy//

Dated this the th day of 2021.

SU/19.03.2021

COURT OFFICER(O.S.)

From 25.09.2008 the Registry is issuing certified copies of the