

THE HIGH COURT OF JUDICATURE AT MADRAS

Date 17.06.2021

CORAM:

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

O.P.Nos.367, 370, 371 & 373 of 2021 &

A.Nos.1867, 1878, 1879 & 1880 of 2021

M/s.Orintal Veneer Products Ltd.,
Having registered Office at
No.36, Mohammadi Lakada Bazar,
M.S.Road, Mumbai – 7.

... Petitioner in
all Ops.

Versus

1. Union of India,
Represented by its General Manager,
Integral Coach Factory,
Chennai.
2. The Chief Material Manager,
Integral Coach Factory,
Chennai.
3. Mr.K.Palanisamy,
District Judge [Retd.],
No.355/51, F1 Jeevanantham Street,
Sadhanandhapuram, New Perungalathu,
Tambaram, Chennai – 600 053.

... Respondents in
all OPs

PRAYER : Petition filed under section 14 read with Section 15 of Arbitration and Conciliation Act, 1996 read with Rule 3[iii] of the Madras High Court [Arbitration] Rules, 2020 to terminate the mandate of the learned sole arbitrator Mr.K.Palanisamy, District Judge, [Retd.], appointed by this Court in O.P.No.125 of 2019 as the sole arbitrator in the arbitral proceedings and to appoint a sole arbitrator to preside and adjudicate the dispute in O.P.No.125 of 2019.

For petitioner : Mr.K.Ashok Kumar
in all OPs.

For respondent : Mr.T.Arunan
in all OPs Assisted by Ms.R.Nandini – R1 & R2

Mr.A.Thiagarajan – R3

COMMON ORDER

These Original Petitions have been filed to terminate the mandate of the present arbitrator and to appoint a sole arbitrator to adjudicate the dispute in O.P.No.125 of 2019.

2. These petitions have been filed mainly on the ground that the arbitrator demanded fees contrary to the agreement. Though the allegations have been made against the arbitrator as to the nature of bias, a perusal of the materials, this Court finds that such allegations are baseless. Infact, the entire proceedings are over before the arbitrator and of course, the arbitrator has issued a letter indicating that the applicant has to be black listed.

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3. It is submitted by the learned counsel appearing for the arbitrator that such a letter has been issued without any intention and in the spur of the moment, since the applicant has purposely dragged on the proceedings from the inception. At any event, it is the contention of the learned counsel that the conduct of the petitioner

arbitrator and they have changed five advocates and after oral arguments, when award is about to be passed by the arbitrator, the present petitions have been filed. Hence, prayed for dismissal of these petitions.

4. This Court, prima facie, is of the view that the allegations made against the arbitrator is baseless. However, taking note of the fact that continuance of the proceedings by the same arbitrator will lead to a situation that the proceedings are not conducted fairly and to avoid such a situation, this Court is of the view that some other arbitrator may be appointed to pronounce the Order, provided the applicant shall bear all the expenses and fees of the newly appointed arbitrator.

5. The learned counsel for the applicant has readily agreed to bear the entire expenses payable to newly appointed arbitrator.

6. In such view of the matter, as the entire proceedings has already been over and only award has to be pronounced, this Court is of the view that a competent civil lawyer may be appointed to adjudicate the matter. Both side counsels have no objection for the same. As all other materials are already on record, the parties have to make their oral submission alone and no other materials shall be allowed to be filed.

i) that Mr.K.V.Babu, Advocate, F-101, First Floor, Subiksha Trinity, 14/9, 4th Street, Bakthavatsalam Nagar, Adyar, Chennai – 600 020. Mobile No.9840075917 is appointed as a Sole Arbitrator to enter upon reference and adjudicate the matter.

ii] 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 the Order.

iii] That the learned Sole Arbitrator appointed herein shall be paid fees as per the schedule and the same shall be borne by the parties equally.

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

17.06.2021

Index : Yes / No

Internet: Yes

Speaking/non speaking order

<https://www.mhc.tn.gov.in/judis/>

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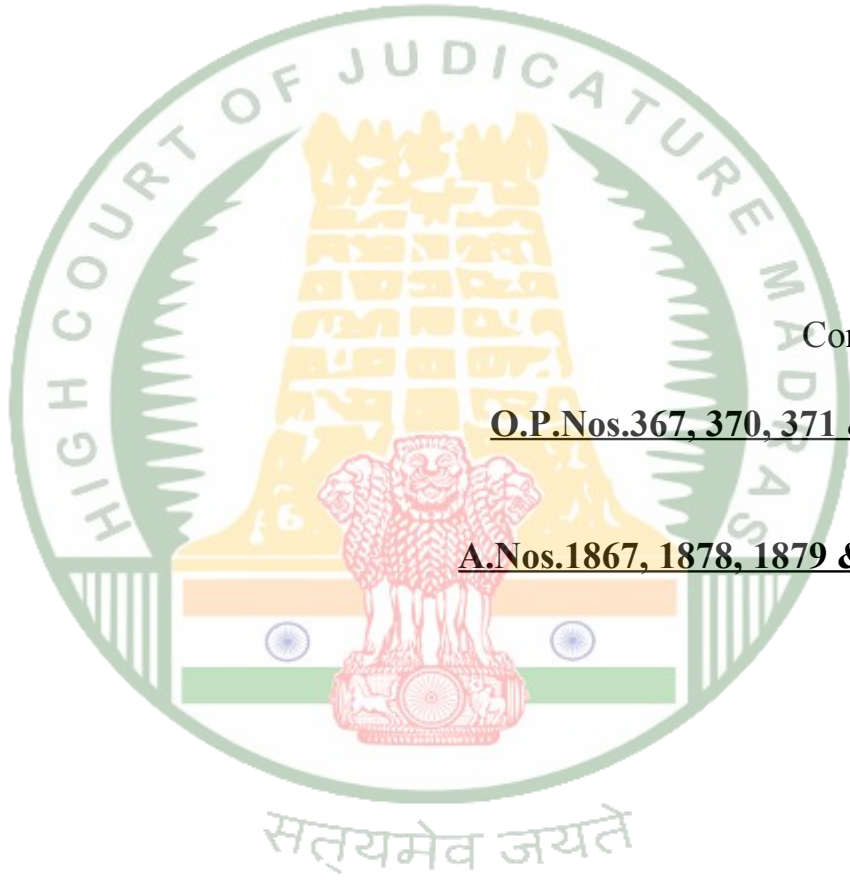
To

Mr.K.V.Babu,
Advocate,
F-101, First Floor,
Subiksha Trinity,
14/9, 4th Street, Bakthavatsalam Nagar,
Adyar, Chennai – 600 020.
Mobile No.9840075917



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N. SATHISH KUMAR, J.
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Common order in:

O.P.Nos.367, 370, 371 & 373 of 2021

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WEB COPY

17.06.2021

O.P.Nos.367, 370, 371 & 373 of 2021

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A.Nos.1867, 1878, 1879 & 1880 of 2021

N.SATHISH KUMAR, J.

This application is listed today under the caption 'for being mentioned' at the instance of the learned counsel for the petitioner.

2. It is submitted by the learned counsel appearing for the petitioner that in the Order dated 17.06.2021 in O.P.Nos.367, 370, 371 & 373 of 2021 in prayer paragraph and in the first paragraph, the O.P.Nos.122, 123, 124 of 2019 have been omitted to be mentioned and hence, prayed for incorporating the same.

3. In view of the above submissions, in the Order in O.P.Nos.367, 370, 371 & 373 of 2021 dated 17.06.2021 the prayer paragraph shall be read as follows :

PRAYER : Petition filed under section 14 read with Section 15 of Arbitration and Conciliation Act, 1996 read with Rule 3[iii] of the Madras High Court [Arbitration] Rules, 2020 to terminate the mandate of the learned sole arbitrator Mr.K.Palanisamy, District Judge, [Retd.], appointed by this Court in O.P.No.125 of 2019 as the sole arbitrator in the arbitral proceedings and to appoint a sole arbitrator to preside and adjudicate the dispute in O.P.Nos.125, 122, 123 and 124 of 2019.

and the first paragraph shall be read as follows :

These Original Petitions have been filed to terminate the mandate of the present arbitrator and to appoint a sole arbitrator to adjudicate the dispute in O.P.No.125, 122, 123 and 124 of 2019.

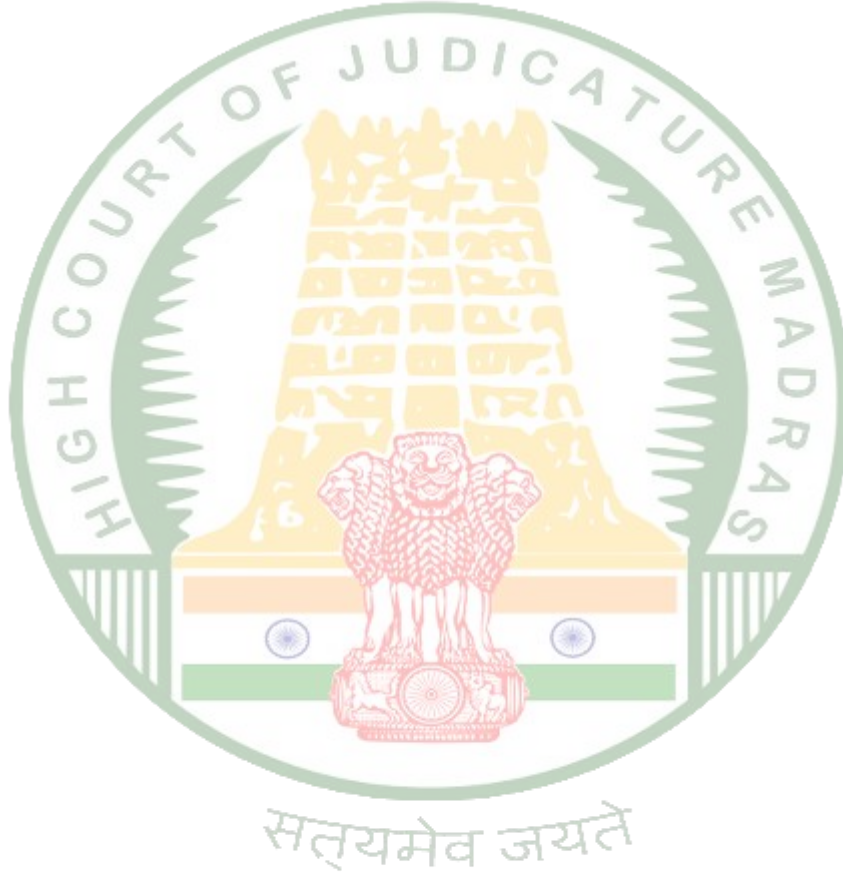
N. SATHISH KUMAR, J.

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The registry is directed to incorporate above paragraphs and issue fresh Order copy to the parties concerned.

12.07.2021

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O.P.Nos.367, 370, 371 & 373 of 2021

&

A.Nos.1867, 1878, 1879 & 1880 of 2021