

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.10.2021

CORAM

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

Arb.O.P.(Com.Div)No.131 of 2021
and A.No.3074 of 2021

1.M/s.LKS Gold Park,
Rep. By its Partner, S.M.Rafi Ahamed,
No.14-B, Brindavan Colony,
Gandhi Road, Choolaimedu,
Chennai – 600 094.

2.S.M.Rafi Ahamed
3.R.A.Rifath Ahamed

.. Petitioners

Vs

1.Arvind Kumar,
Proprietor, M/s.Arvind Jewellers,
Gurdev Complex, 1st Floor,
No.2, Thulasingham Street,
2nd Lane, Sowcarpet,
Chennai – 600 079.

2.S.Imtiaz Ahamed(Sole Arbitrator)

..Respondents

Prayer: Petition filed under Section 34 of the Arbitration and Conciliation Act, 1996 praying this Court (a) to set aside the arbitral award dated 03.02.2021 (not bearing any number) passed by the 2nd respondent in its entirety (b) to direct the respondents to pay costs and (c) to grant such further reliefs as this Court may deem fit under the circumstances of the case.

For Petitioners : Mr.Niranjan Rajagopalan
for M/s.G.R.Associates

For Respondents : Mr.Prashant Rajagopal
for Mr.T.M.Mano
for R1
Mr.B.Rajkumar Ashok Singh
for R2

ORDER

Challenge has been made to the award passed by the learned Arbitrator in a partnership dispute but there is no indication in the award that the partnership existed between the parties.

2. The award proceeded as if the applicants/petitioners approached the Arbitrator and informed about the dispute. Thereafter, the arbitrator called the first respondent and applicants/petitioners and after due consultations, passed an award. There is no claim statements or defence placed before the Arbitrator. Mainly, the award is the result of some mutual discussion between the parties and no procedure, whatsoever specified under the Act, has been followed. The fact that the arbitrator is the relative of petitioners 2 and 3 has not been disputed by the petitioners.

3. Learned counsel appearing for the first respondent submitted that though he wanted to file counter affidavit, despite

the allegations made against the second respondent, the fact that he is the relative of petitioners 2 and 3 is not in dispute. In such view of the matter, procedure contemplated under Act is also violated.

4. Be that as it may, the Arbitrator being a relative of petitioners 2 and 3, ought not to have entertained the matter and more so, no dispute has been referred to him in writing. The entire dispute appears to have been raised in a mutual discussion and based on that, the Award was passed.

5. This Court is of the view that the award passed by the Arbitrator is patently illegal and the same is set aside. It is open to the parties to seek for fresh arbitration, if there exists an agreement between the parties, as per law.

6. In view of the above, this original petition stands allowed. No costs. Consequently, connected application is closed.

07.10.2021

Index: Yes/No
ssm

N. SATHISH KUMAR, J.

(ssm)



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