



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.09.2021

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CORAM :

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.Nos.2477, 2478, 2479, 2480, 2481, 2482,
2483, 2484, 2485, 2486, 2487, 2488, 2489,
2490, 2491, 2492, 2493, 2494, 2495, 2496,
2497, 2498, 2499, 2500, 2501, 2502, 2503,
2504, 2505, 2506, 2507, 2508, 2509, 2545,
2546, 2547, 2548, 2549, 2550, 2551, 2552,
2553, 2554, 2555, 2556, 2557 and 2558 of 2017
and

CMP Nos.13643, 13644, 13645, 13646, 13647, 13648,
13649, 13650, 13651, 13652, 13653, 13654, 13655, 13656,
13657, 13658, 13659, 13660, 13661, 13662, 13663, 13664,
13665, 13666, 13667, 13668, 13669, 13670, 13671, 13672,
13673, 13674, 13675, 13905, 13906, 13907, 13908, 13909,
13910, 13911, 13912, 13913, 13914, 13915, 13916,
13917 and 13918 of 2017

S.Balasubramanian	...Appellant / Respondent in CMA No.2477 of 2017
1.Archana.S 2.Aravindh.V	...Appellants/Respondents in CMA No.2478 of 2017
Usha Malayappan rep.by Power Agent Aruna Mukund	...Appellant / Respondent in CMA No.2479 of 2017
1.Rathnakumar.S 2.V.Ramya	...Appellants/Respondents in CMA No.2480 of 2017
Sivakumar.A	...Appellant / Respondent in CMA No.2481 of 2017
Krishnan.R	...Appellant / Respondent in CMA No.2482 of 2017



Vikram Kumar.N

Sarathkrishna.M

Sivasankar.R

1.M.Sundharom

2.M.Balaraman

Ayyanar.P

1.Rajakumari.S

2.E.Ponmanon

Rajkumar.S

Arvind Kumar.R

V.Rajbabu

Suriya Narayanan.N

Srikanth.A

1.R.Nalini

2.Rajasekaran

Arun Prasad.V

1.Robert Beno DG

2.D.T.Gnanaprakasam

...Appellant / Respondent
in CMA No.2483 of 2017

...Appellant / Respondent
in CMA No.2484 of 2017

...Appellant / Respondent
in CMA No.2485 of 2017

...Appellants/Respondents
in CMA No.2486 of 2017

...Appellant / Respondent
in CMA No.2487 of 2017

...Appellants/Respondents
in CMA No.2488 of 2017

...Appellant / Respondent
in CMA No.2489 of 2017

...Appellant / Respondent
in CMA No.2490 of 2017

...Appellant / Respondent
in CMA No.2491 of 2017

...Appellant / Respondent
in CMA No.2492 of 2017

...Appellant / Respondent
in CMA No.2493 of 2017

...Appellants/Respondents
in CMA No.2494 of 2017

...Appellant / Respondent
in CMA No.2495 of 2017

...Appellants/Respondents
in CMA No.2496 of 2017



Avudaiappan

Parathasarathy.S

1.Hemalatha

2.Rupeshkumar

Shriakant.V.S

Venkatesh.G

Ashok.R

1.Siva Kumar

2.S.Srinivas

Sandip Kumar Sahu.P

1.Vaidyananthan.R

2.S.Lekshmi

1.Priyadharshini.R

2.Rajkumar

Harih Krishnan.P

Balakumar.N

1.Subramanian.K

2.Gowri.R

...Appellant / Respondent
in CMA No.2497 of 2017

...Appellant / Respondent
in CMA No.2498 of 2017

...Appellants/Respondents
in CMA No.2499 of 2017

...Appellant / Respondent
in CMA No.2500 of 2017

...Appellant / Respondent
in CMA No.2501 of 2017

...Appellant / Respondent
in CMA No.2502 of 2017

...Appellants/Respondents
in CMA No.2503 of 2017

...Appellant / Respondent
in CMA No.2504 of 2017

...Appellants/Respondents
in CMA No.2505 of 2017

...Appellants/Respondents
in CMA No.2506 of 2017

...Appellant / Respondent
in CMA No.2507 of 2017

...Appellant / Respondent
in CMA No.2508 of 2017

...Appellants/Respondents
in CMA No.2509 of 2017



Unni Krishnan.K

Nagaraj.T

1.Balasubramanian.N

2.Umameshwari

Ramanujam M.K.

1.Kavi Sankari.L

2.Vijayalakshmi

Mathan Selva Kumar.A

Vivek Bharath Kumar.M

1.Murugavel.S

2.N.Nithya

Swaminathan

Benny Kurien.V

Ramkumar.K

Thounaojam Darendra Singh

1.Pandiarajan

2.Sridevi

...Appellant / Respondent
in CMA No.2545 of 2017

...Appellant / Respondent
in CMA No.2546 of 2017

...Appellants/Respondents
in CMA No.2547 of 2017

...Appellant / Respondent
in CMA No.2548 of 2017

...Appellants/Respondents
in CMA No.2549 of 2017

...Appellant / Respondent
in CMA No.2550 of 2017

...Appellant / Respondent
in CMA No.2551 of 2017

...Appellants/Respondents
in CMA No.2552 of 2017

...Appellant / Respondent
in CMA No.2553 of 2017

...Appellant / Respondent
in CMA No.2554 of 2017

...Appellant / Respondent
in CMA No.2555 of 2017

...Appellant / Respondent
in CMA No.2556 of 2017

...Appellants/Respondents
in CMA No.2557 of 2017



Vadivel.S

...Appellant / Respondent
in CMA No.2558 of 2017

VS.

WEB COPY

M/s.Amarprakash Property Management
Services Private Ltd.,
No.42, Rajendra Prasad Road,
Nehru Road, Chrompet,
Chennai - 600 044.

...Respondent / Claimant
in all CMAs

Common Prayer : Civil Miscellaneous Appeals filed under Section 37 of the Arbitration and Conciliation Act, 2015 to set aside the order dated 21.07.2017 passed by the sole Arbitrator and allow this Appeal.

For Appellant in all CMAs : Mr.P.V.Balasubramaniam

For Respondent in all CMAs : M/s.Kumarapal R. Chopora
Mr.Dinesh Kumar - No appearance
Change of vakalath
for sole respondent.

COMMON JUDGMENT

(These cases were heard through Video Conferencing)

These appeals arise out of similar orders passed by the Arbitral Tribunal under Section 17 of the Arbitration and Conciliation Act, wherein interim directions have been issued to the respective appellants to pay certain sums of money towards maintenance and other charges. Since, these appeals arise out of the very same issue, all these appeals are disposed of by a common judgment.

2. These appeals have been filed by the Apartment owners of a residential complex which was earlier maintained by the respondent under a maintenance agreement. There seems to be some disputes between the parties under the said agreement and the said disputes were referred to Arbitration in accordance



with the Arbitration clause contained in the said agreement. The impugned order has been passed under Section 17 of Arbitration and Conciliation Act issuing certain interim directions against each of the respective appellants in all these appeals.

3. Aggrieved by the same, these appeals have been filed under Section 37 of the Arbitration and Conciliation Act.

4. On the last hearing date i.e. on 16.09.2021, this Court directed the respondent counsel Mr.Kumarapal R. Chopra, learned counsel to get instructions as to whether the respondent has filed the claim statement in the Arbitration as the learned counsel for the Appellant in all these appeals was repeatedly pointing out that till date, no claim statement was filed.

5. Today, the learned counsel for the Appellant in all these appeals would submit till date, no claim statement has been filed by the respondent before the Arbitral Tribunal and he would also submit that one of the Arbitrators who has passed the impugned orders under Section 17 of the Arbitration and Conciliation Act Mr.M.Sunil Raja has now become a Civil Judge (Junior Division) and the other Arbitrator Mr.Inbavijayan, learned counsel has also not shown interest in proceeding with the Arbitration. Under the Arbitration and Conciliation Act once the interim order is granted, the Arbitration should be completed expeditiously.

6. Mr.Kumarapal R. Chopra, learned counsel today informs this Court that he had already given change of vakalath to Mr.Dinesh Kumar, learned counsel, who has not appeared before this Court today.

7. Infact under Section 29-A of the Arbitration and Conciliation Act 1996, strict time lines have been statutorily fixed for completion of Arbitration. Section 29-A of the Arbitration and Conciliation Act reads as follows :

[29A.Time limit for Arbitral award.--2[(1) The award shall be made within a period of twelve months from the date the arbitral tribunal enters upon the reference.

Explanation : For the purpose of this sub-section, an arbitral tribunal shall be deemed to have entered upon the



reference on the date on which the arbitrator or all the arbitrators, as the case may be, have received notice, in writing of their appointment.

(2) If the award is made within a period of six months from the date the arbitral tribunal enters upon the reference, the arbitral tribunal shall be entitled to receive such amount of additional fees as the parties may agree.

(3) The parties may, by consent, extend the period specified in sub-section (1) for making award for a further period not exceeding six months.

(4) If the award is not made within the period specified in sub-section (1) or the extended period specified under sub-section (3), the mandate of the arbitrator(s) shall terminate unless the Court has, either prior to or after the expiry of the period so specified, extended the period:

Provided that while extending the period under this sub-section, if the Court finds that the proceedings have been delayed for the reasons attributable to the arbitral tribunal, then, it may order reduction of fees of arbitrator(s) by not exceeding five per cent. for each month of such delay.

3[Provided further that where an application under sub-section (5) is pending, the mandate of the arbitrator shall continue till the disposal of the said application:

Provided also that the arbitrator shall be given an opportunity of being heard before the fees is reduced.]

(5) The extension of period referred to in sub-section (4) may be on the application of any of the parties and may be granted only for sufficient cause and on such terms and conditions as may be imposed by the Court.

(6) While extending the period referred to in sub-section (4), it shall be open to the Court to substitute one or all of the arbitrators and if one or all of the arbitrators are substituted, the arbitral proceedings shall continue from the stage already reached and on the basis of the evidence and material already on record, and the arbitrator(s) appointed under this section shall be deemed to have received the said evidence and material.

(7) In the event of arbitrator(s) being appointed under this section, the arbitral tribunal thus reconstituted shall be



deemed to be in continuation of the previously appointed arbitral tribunal.

(8) It shall be open to the Court to impose actual or exemplary costs upon any of the parties under this section.

(9) An application filed under sub-section (5) shall be disposed of by the Court as expeditiously as possible and endeavour shall be made to dispose of the matter within a period of sixty days from the date of service of notice on the opposite party.

8. As seen from the aforementioned Section, the Arbitral Tribunal will have to pass an Arbitral Award within a period of twelve months from the date when the Arbitral Tribunal enters upon the reference. The time period can be extended by another period of six months by consent of the parties and if the award has not been passed even thereafter, the Court alone can grant extension of further time for passing the Arbitral Award. Section 29-A of the Act, extracted above is as per the 2015 amendment to the Arbitration and the Conciliation Act, 1996 as only the said amendment applies to the Arbitration which is the subject matter of these appeals.

9. In the case on hand in all the Arbitration claims, excepting for passing of the interim order under Section 17 of the Arbitration and Conciliation Act, no further progress has been shown in the Arbitration by the Arbitral Tribunal. Admittedly, the claim statements have also not been filed till date. The Arbitration was originally initiated in the year 2017 and even after the lapse of more than four years, no progress has been shown in the Arbitration. Hence, the impugned orders passed under Section 17 of the Arbitration and Conciliation Act, which is the subject matter of these appeals have to be necessarily set aside as Section 29-A of the Arbitration and Conciliation Act has been contravened by the Arbitral Tribunal by not showing any progress in the Arbitration after passing of the impugned orders. The very purpose of the Arbitration is for expeditious disposal of disputes. But in the case on hand, the object of Arbitration has been defeated by the Arbitral Tribunal by not showing any progress in the Arbitration.

10. In the result, all these Civil Miscellaneous Appeals are allowed by setting aside the impugned orders all dated



21.07.2017 passed by the Arbitral Tribunal. No costs.
Consequently, connected miscellaneous petitions are closed.

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Sd/-
Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar

ab/vsi2

To

Mr.V.Inbavijayan, Advocate,
The Sole Arbitrator,
Arbitral Tribunal,
Chennai.

Copy To

The Section Officer,
V.R.Section,
High Court, Madras.

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2552, 2553, 2554, 2555, 2556, 2557
and 2558 of 2017

RR(CO)
RVM(11/10/2021)