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IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

THURSDAY, THE 26TH DAY OF MAY 2022

THE HON'BLE MR. JUSTICE C.SARAVANAN

Arb.Appln.Nos.107 to 109 of 2022

in

O.A.No. 272 of 2022

(In the matter of arbitration dispute
arose from the Partnership deed dated
01.04.2011 executed between the
Mother of the Applicant and
Respondents 1 and 2)

Krishna Kumar Mundhra,
S/o.Late.Jeevanlal Mundhra,
No.32, Mahalakshmi Street,
T.Nagar,
Chennai – 600 017.

.....Applicant

-Vs-

1. Shyamdev Mundhra,
S/o.Late.Jeevanlal Mundhra,
P.M. Villa, 10/2,
Thulasingham Street,
Sowcarpet,
Chennai – 600 001.

2. Ashok Kumar Mundhra,
S/o. Jeevanlal Mundhra,
No.9, Thulasingham Street,
Sowcarpet,
Chennai – 600 001.

3. Ms. Uma Rathi,
C/o. Mr. Govind Rathi,
Venkatesh Dall and Oil Industries,



Surajganj, Itarsi, District Hosangabad,
Madhya Pradesh.

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Temporarily come down to Chennai
P.M. Villa, 10/2, Thulasingham Street,
Sowcarpet, Chennai – 600 001.

4. Mr. Ramdev Mundhra,
S/o. Jeevanlal Mundhra,
No.18, Vaikunda Vaithiyar Street,
Sowcarpet, Chennai – 600 001.

.....Respondents

Arb.Appln.No.107 of 2022 :-

Ashok Kumar Mundhra,
S/o.Late.Jeevanlal Mundhra,
No.9, Thulasingham Street,
Sowcarpet,
Chennai – 600 001.

....Applicant/2nd Respondent

-VS-

1. Krishna Kumar Mundhra,
S/o.Late.Jeevanlal Mundhra,
No.32, Mahalakshmi Street,
T.Nagar,
Chennai – 600 017.

...1st Respondent/Applicant

2. Shyamdev Mundhra,
S/o. Jeevanlal Mundhra,
P.M. Villa, 10/2,
Thulasingham Street,
Sowcarpet,
Chennai – 600 001.

3. Ms. Uma Rathi,
C/o. Mr. Govind Rathi,
Venkatesh Dall and Oil Industries,
Surajganj, Itarsi, District Hosangabad,
Madhya Pradesh.

**Temporarily come down to Chennai**

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P.M. Villa, 10/2, Thulasingham Street,
Sowcarpet, Chennai – 600 001.

4. Mr. Ramdev Mundhra,
S/o. Jeevanlal Mundhra,
No.18, Vaikunda Vaithiyar Street,
Sowcarpet, Chennai – 600 001.

...Respondents/Respondents

Arbitration Application praying that this Hon'ble Court be pleased to
vacate the Interim Injunction granted in O.A.No.272 of 2022 vide order
dated 06.05.2022.

Arb.Appln.No.108 of 2022 :-

Shyamdev Mundhra,
S/o.Late.Jeevanlal Mundhra,
P.M. Villa, 10/2,
Thulasingham Street,
Sowcarpet,
Chennai – 600 001.

....Applicant/1st Respondent

-VS-

1. Krishna Kumar Mundhra,
S/o.Late.Jeevanlal Mundhra,
No.32, Mahalakshmi Street,
T.Nagar,
Chennai – 600 017.

...1st Respondent/Applicant

2. Ashok Kumar Mundhra,
S/o. Jeevanlal Mundhra,
No.9, Thulasingham Street,
Sowcarpet,
Chennai – 600 001.

3. Ms. Uma Rathi,



C/o. Mr. Govind Rathi,
Venkatesh Dall and Oil Industries,
Surajganj, Itarsi, District Hosangabad,
Madhya Pradesh.

Temporarily come down to Chennai

P.M. Villa, 10/2, Thulasisingam Street,
Sowcarpet, Chennai – 600 001.

4. Mr. Ramdev Mundhra,
S/o. Jeevanlal Mundhra,
No.18, Vaikunda Vaithiyar Street,
Sowcarpet, Chennai – 600 001.

...Respondents/Respondents

Arbitration Application praying that this Hon'ble Court be pleased to vacate the Interim Injunction granted in O.A.No.272 of 2022 vide order dated 06.05.2022.

Arb.Appln.No.109 of 2022 :-

Ms. Uma Rathi,
C/o. Mr. Govind Rathi,
Venkatesh Dall and Oil Industries,
Surajganj, Itarsi, District Hosangabad,
Madhya Pradesh.

Temporarily come down to Chennai

P.M. Villa, 10/2, Thulasisingam Street,
Sowcarpet, Chennai – 600 001.

....Applicant/3rd Respondent

-VS-

1. Krishna Kumar Mundhra,
S/o. Late Jeevanlal Mundhra,
No.32, Mahalakshmi Street,



T.Nagar,
Chennai – 600 017.

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...1st Respondent/Applicant

2. Shyamdev Mundhra,
S/o. Jeevanlal Mundhra,
P.M. Villa, 10/2,
Thulasisingam Street,
Sowcarpet,
Chennai – 600 001.

3. Ashok Kumar Mundhra,
S/o. Jeevanlal Mundhra,
No.9, Thulasisingam Street,
Sowcarpet,
Chennai – 600 001.

4. Mr. Ramdev Mundhra,
S/o. Jeevanlal Mundhra,
No.18, Vaikunda Vaithiyar Street,
Sowcarpet, Chennai – 600 001.

...Respondents/Respondents

Arbitration Application praying that this Hon'ble Court be pleased to vacate the Interim Injunction granted in O.A.No.272 of 2022 vide order dated 06.05.2022.

These Arbitration Applications coming on this day before this court for hearing in the presence of Mr.Muralikumaran, for M/s.MCGAN Law Firm, Advocates for the applicant in Arb.Appln.No.107 of 2022 and Mr.Avinash for Mr.N.Narayanasamy, Advocates for the 1st respondent in Arb.Appln.No.107 to 109 of 2022 and Mr.NGR Prasad, Senior Counsel for M/s.R.Harikrishnan, Advocates for the applicant in Arb.Appl.No.108 of 2022 and Mr.Muralikumaran for Mr.Aadhitya Logeshen, Advocates for the



applicant in Arb.Appln.No.109 of 2022 and upon reading the Judges Summons and the Affidavit of Ashok Kumar Mundhra, filed in Arb.Appln.No.107 of 2022 and the Judges Summons and the Affidavit of Shyamdev Mundhra filed in Arb.Appln.No.108 of 2022 and the Judges Summons and the Affidavit of Uma Rathi filed in Arb.Appln.No.109 of 2022 and the order dated 06.05.2022 made in O.A.No.272 of 2022 and Arb.Appln.No.97 of 2022 and this Court having observed that the claim of the applicant is barred by limitation as the applicant had admittedly resigned from the partnership firm as early as on 30.04.2011, therefore, order of this Court dated 06.05.2022 cannot be allowed to continue. It has to be vacated. At best, the petitioner may file a suit or initiate arbitration proceedings for recovering the amounts that were due, which were allegedly not settled by the partnership firm subject to limitation, *Prima facie* the claim appears to be time barred, and applications under Section 9 of Arbitration and Conciliation Act, 1996 in 2022 in respect of the alleged cause of action in 2011 are belated and therefore, there is equity in favour of the applicant in OA.No.272 of 2022 and **it is ordered as follows:-**

That the order of interim injunction granted in pursuance of the order dated 06.05.2022 made in O.A.No.272 of 2022, restraining the 1st respondent therein from operating the accounts of the Partnership Firm be and is hereby vacated.



2. That if the applicant is aggrieved, the applicant herein shall be at liberty to appoint an Arbitrator if the claim is not stale, after issuing appropriate notices to the respective respondents in Arb.A.Nos.108, 107 & 109 of 2022 for appointing an arbitrator.

3. That the O.A.No.272 of 2022 do stand closed.

4. That there shall be no costs.

WITNESS THE HON'BLE MR. JUSTICE MUNISHWAR NATH BHANDARI, CHIEF JUSTICE, HIGH COURT AT MADRAS AFORESAID, THIS THE 26TH DAY OF MAY 2022.

Sd./-
VACATION OFFICER

//Certified to be true copy//
Dated at Madras this the day of 2022.

COURT OFFICER(O.S.)
From 25th Day of September 2008 the Registry is issuing certified copies of the Orders/Judgments/Decrees in this format.



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31.05.2022

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VACATION COURT

Arb.Appln.Nos.107 to 109 of 2022
in
O.A.No. 272 of 2022

ORDER

DATED : 26.05.2022

THE HON'BLE MR. JUSTICE
C.SARAVANAN

FOR APPROVAL: 31.05.2022

APPROVED ON : 31.05.2022



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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.05.2022

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

Arbitration Application Nos.107 to 109 of 2022

in

OA.No.272 of 2022

Arb.A.No.107 of 2022

Ashok Kumar Mundhra

... Applicant

Vs.

1.Krishna Kumar Mundhra

2.Shaymdev Mundhra

3.Uma Rathi

4.Ramdev Mundhra

... Respondents

Prayer:- Application filed under Order XIV Rule 8 of O.S.Rules read with Section 9 II (d) of Arbitration and Conciliation Act, 1996 seeking to vacate the interim injunction granted in OA.No.272 of 2022 vide order dated 06.05.2022.

For Applicant : Mr.Muralikumaran

for M/s MCGAN LAW FIRM

For R1: Mr.Avinash

for Mr.N.Narayanasamy



Arb.A.No.108 of 2022

Shaymdev Mundhra

... Applicant

Vs.

1.Krishna Kumar Mundhra

2.Ashok Kumar Mundhra

3.Uma Rathi

4.Ramdev Mundhra

Prayer:- Application filed under Order XIV Rule 8 of O.S.Rules read with Section 9 II (d) of Arbitration and Conciliation Act, 1996 seeking to vacate the interim injunction granted in OA.No.272 of 2022 vide order dated 06.05.2022.

For Applicant : Mr.NGR Prasad

Senior Counsel

For R1: Mr.Avinash

for Mr.N.Narayanasamy

Arb.A.No.109 of 2022

Uma Rathi

... Applicant

Vs.

1.Krishna Kumar Mundhra

2.Shaymdev Mundhra

3.Ashok Kumar Mundhra

4. Ramdev Mundhra

... Respondents



Prayer:- Application filed under Order XIV Rule 8 of O.S.Rules read with Section 9 II (d) of Arbitration and Conciliation Act, 1996 seeking to vacate the interim injunction granted in OA.No.272 of 2022 vide order dated 06.05.2022.

For Applicant : Mr.Muralikumaran

For R1: Mr.Avinash

for Mr.N.Narayanasamy

COMMON ORDER

OA.No.272 of 2022 was filed by the applicant Krishna Kumar Mundhra under Section 9 of Arbitration and Conciliation Act, 1996 read with order XIV Rule 8 of O.S.Rules for the following relief:-

“This Hon'ble Court should not be pleased to grant an order of interim injunction restraining the 1st respondents herein as his men from using the assets, profits and goodwill of the firm M/s.Phusaram Munthada and continuing the business in the name of the partnership firm by operating the bank accounts of the firm more fully described in the Judges summons pending disposal of the appointment of petitioner's application and pass such other suitable order and thus render justice.”

2. An interim order came to be passed by this Hon'ble Court on 06.05.2022 by restraining the first respondent namely Shaymdev Mundhra from operating the accounts of the said partnership firm namely M/s.Phusuram Mundhra Private Limited which reads as under:-

“Admit.

2. Notice to the respondents.



3. In the 2nd Partnership Deed, the first respondent is a partner and he executed a Partnership Deed on 01.04.2020 including his two sons as partners. The first respondent cannot act and execute the Partnership Deed without including the petitioner.

4. The petitioner is also one of the legal heirs for the mother who is the partner as per the 1991 Partnership Deed.

5. List this case immediately after vacation. Till then, the first respondent is restraining from operating the accounts of the Partnership Firm.”

3.The Arbitration Application No.107 to 109 of 2022 have been filed to vacate order dated 06.05.2022 in OA.No.272 of 2022. The parties herein are siblings and children of late Shri Jeevanlal Mundhra and late Mrs.Mainabai Mundhra who died on 01.04.2020.

4. The case of the applicant appears to be that the dispute between the applicant and the respondents is arbitral in terms of Clause 19 of deed of partnership dated 01.04.1991. It is further case of the applicant that though the applicant resigned from the aforesaid firm on 01.04.2011, the accounts have not been settled till date. That apart, it is submitted that on 01.04.2020, the applicant's late mother Mrs.Mainabai Mundhra passed away and that the second respondent Ashok Kumar Mundhra also resigned on the same day and therefore, the said partnership no longer exist.

5. The interim order passed by this Court is sought to be vacated



in Arb.A.Nos.108, 107 & 109 of 2022.

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6. It is submitted that the order that has been passed by this Court on 06.05.2022 has to be vacated as the applicant in OA.No.272 of 2022 is not a partner of the said partnership firm and has resigned as early as on 30.04.2011 and that there are no dues in respect of the alleged claim of the said applicant.

7. It is further submitted that merely because their mother passed on 01.04.2020 *ipso facto* would not mean that the said partnership firm stood dissolved or the applicant was entitled to meddle with the affairs of the aforesaid firm long after resignation.

8. I have heard both the parties and in OA.No.272 of 2022 (the applicants in AA.Nos.108, 107 & 109).

9. *Prima Facie* it appears that the claim of the applicant is barred by limitation as the applicant had admittedly resigned from the partnership firm as early as on 30.04.2011. Therefore, order of this Court dated 06.05.2022 cannot be allowed to continue. It has to be vacated. At best, the petitioner may file a suit or initiate arbitration proceedings for recovering the amounts that were due, which were allegedly not settled by the partnership firm subject to limitation. *Prima facie* the claim appears to be time barred. Under these circumstances, the interim order passed stands



10. If at all, if the applicant is aggrieved, it is open for the applicant to appoint an Arbitrator if the claim is not stale, after issuing appropriate notices to the respective respondents in Arb.A.Nos.108, 107 & 109 of 2022 for appointing an arbitrator. Applications under Section 9 of Arbitration and Conciliation Act, 1996 in 2022 in respect of the alleged cause of action in 2011 is belated and therefore, there is equity in favour of the applicant in OA.No.272 of 2022.

11. Under these applications filed, interim order dated 06.05.2022 in O.A.No.272 of 2022 is vacated and therefore, O.A.No.272 of 2022 is closed. Consequently, Arb.Nos.108, 107 & 109 are allowed. No Costs.

Sd./- C.S.N.J.,
26/05/2022

//Certified to be true copy//

Dated at Madras this the day of 2022.

COURT OFFICER(O.S.)

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