A.No.4862 of 2022
in
Arb.O.P.(COM.DIV.) No.595 of 2022

KRISHNAN RAMASAMY, J.

This application is filed under Sec.36 (3) of the Arbitration and Conciliation Act, 1996 to stay further proceedings of the Arbitral Award dated 11.5.2022 passed by the sole Arbitrator in a proceedings arising out of Partnership deed dated 1.4.2021, pending disposal of the main Arb. O.P.

2. The Sole Arbitrator pursuant to passing the preliminary award, was pleased to appoint Mr.K.R.Sudharshan, Chartered Accountant, as auditor, to call for the records from both parties, elicit the income earned from the partnership asset, detail the legitimate expenses incurred for upkeep the building, payment of taxes and generally draw up accounts for dissolution of the partnerhsip from 15.4.2016 till the date of the award and for the subsequent dates as well till the property is distributed in the course of partnership. The Arbitrator also appointed one Mr.G.Chellaiah Sarathy as Engineer to inspect the partnership property, assess the value of the land and building and determine the base price that can be put up for auction in the event of the property not being fit for division in the manner contemplated in the award.

3. Counsel appearing for the applicant submits that a Will dated 4.4.2007 executed by father of the applicant in favour of the respondent is said to have under challenge in TOS No.1 of 2020 and C.S.No.510 of 2016. Further, the mother of the applicant also executed settlement deed in favour of the respondent on 16.4.2013 and the same is under challenge in C.S.No.992 of 2016. The aforesaid suits are pending before this Court challenging the Will as well as the settlement deed. Without taking into consideration of the pending suits, the Arbitrator has passed the preliminary award.

4. Mr.Aravind Pandian, Senior Counsel appearing for the respondents referred to Clause 3 in para 62 of the award wherein it is stated as follows:

> *"3. The Claimants are entitled to preliminary award for 53.83% share in the net assets of the dissolved partnership firm subject to modification that may result by adjudication in TOS No.1 and 14 of 2019 and C.S.No.510 of 2016 and 992 of 2016 on the file of High Court of Judicature at Madras.*

5. Considering the aforesaid submissions of the parties, this Court is of the view that since preliminary award, Chartered Accountant was appointed to file a report and Chartered Engineer was also appointed to

determine the value of the property, this Court is not inclined to interfere with the award passed by the Arbitrator. However, the Arbitrator is directed not to pass final award pending suits.

6. With the above directions, the application is disposed of.

9.12.2022

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9.12.2022

This application is filed by the Official Liquidator along with the report seeking approval for Form 71 and the proposed dividend to two creditors; permission to declare and disburse dividend on the admitted amount to SIPCOT; permission to declare and disburse dividend on the admitted amount to Commercial Tax office; to open a separate dividend account with Punjab National Bank, NSC Bose Road, Chennai and to transfer a sum of Rs.2,41,52,942/- from funds of the company in liquidation, exclusively for making payment of dividend to SIPCOT and CTO; Keep the dividend account open for 3 months and thereafter to remit the unclaimed amount, if any, to The Registrar of Companies, Tamilnadu, Chennai; Dispense with causing publication in newspapers regarding declaration / disbursement of dividend, since the disbursement is to be made to 2 creditors only and to incur the expenses in connection with declaration / disbursement of dividend from the funds available to the credit of the company in liquidation.