



**A.Nos.758, 759 & 760 of 2021 in
O.P.No.279 of 2016 &**

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ABDUL QUDDHOSE, J.

Application No.758 of 2021 has been filed to condone the delay of 1236 days in filing an application to set aside the abatement caused on the death of the sole petitioner M.R.Ramakrishnan Chettiar, Application No.759 of 2021 has been filed to set aside the abatement caused on the death of the sole petitioner M.R.Ramakrishnan Chettiar and Application No.760 of 2021 has been filed to bring on record the legal representatives of the deceased M.R.Ramakrishnan Chettiar as petitioners 2 to 6 in O.P.No.279 of 2016.

2. In the affidavit filed in support of these applications, the legal representatives of the deceased M.R.Ramakrishnan Chettiar have stated that M.R.Ramakrishnan Chettiar who was the sole petitioner in Original Petition No.279 of 2016 died at the age of 91 years. They have also stated that there were some differences amongst his legal representatives and they were also not aware of the proceedings in O.P.No.279 of 2016. In those circumstances, they have pleaded that the delay in bringing on record the legal representatives of the deceased sole petitioner M.R.Ramakrishnan Chettiar



is neither willful nor wanton, but only due to the reasons stated in the affidavits filed in support of these applications.

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3. Counter affidavit has been filed by the respondent in these applications denying the contentions of the applicants. According to them, the reason for the delay has not been properly explained by the applicants. It is also stated by them that the legal representatives were very much aware of the pending O.P.No.279 of 2016 filed by M.R.Ramakrishnan Chettiar.

4. This Court has also perused the grounds raised by the petitioner, late M.R.Ramakrishnan Chettiar in O.P.No.279 of 2016. As seen from the grounds, the petitioner has challenged the impugned arbitral award on the following grounds:

(a) In respect of mortgage, arbitration claim cannot be made and is not maintainable.

(b) No proper opportunity was granted to the petitioner by the Arbitral Tribunal before passing of the arbitral award, which is the subject matter of challenge in O.P.No.279 of 2016.



5. After giving due consideration to the reasons contained in the affidavit filed in support of these applications and after taking note of the fact that the deceased namely the sole petitioner died at the very old age of 91 years and his legal representatives were having some differences, this Court is inclined to allow this application after giving due consideration to the counter affidavit filed by the respondent in these applications.

6. In the counter affidavit filed by the respondent in these applications, they have not disputed the names of the legal representatives for the deceased M.R.Ramakrishnan Chettiar, the sole petitioner in O.P.No.279 of 2016. The petitioner has also raised several grounds in the grounds of the petition filed in support of O.P.No.279 of 2016 and few of the grounds are stated supra which will have to be adjudicated by this Court on merits while deciding the application under section 34 of the Arbitration and Conciliation Act, 1996.

7. For the foregoing reasons, this court is inclined to allow these applications. Accordingly, these applications are allowed as prayed for.



8. Registry is directed to carry out the necessary amendment in

O.P.No.279 of 2016 and list the same for hearing on 07.08.2023.

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O.P.No.279 of 2016

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