



WEB COPY



Arb.O.P. (Com.Div.) No.94 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.03.2024

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

Arb.O.P.(Com.Div.)No.94 of 2024

1.Yokesh M.U.
2.S.Mohan Babu

... Petitioners

Vs.

1.Mr.Sanjay Pinto,
Sole Arbitrator,
No.60, C.P.Ramasamy Road,
Alwarpet, Chennai – 600 018.

2.EVP Rajeshwari Marriage Palace,
Rep by Mrs.Sanmitha Narayanan,
C/o. E.v.Perumalswamy Reddy,
No.23, Thiagaraya Road, Pondy Bazaar,
T.Nagar, Chennai – 600 017.

.. Respondents

Prayer: Original Petition is filed under Section 14(2) r/w 15(1) of the Arbitration and Conciliation Act, 1996, praying to terminate the present Arbitrator and appoint a new Arbitrator in his place.

For Petitioners : Mr.R.S.Mohan

For Respondents : M/s.Nirmal Roy Sanjeevi for R1
M/s.R.Murali for R2



ORDER

I have considered the arguments advanced by the learned counsel for the petitioners and the learned counsels for the respondents.

2. This Original Petition filed under Sections 14(2) and 13(1) of the Arbitration and Conciliation Act, 1996, is misconceived and motivated. The petitioners had approached this Court against an interim order passed by the learned Arbitrator, which was the subject matter of the challenge in CMA.No.424 of 2024.

3. This Court has rejected the above CMA vide its order dated 28.02.2024 by holding the Arbitrator has rightly rejected the application.

4. The learned Arbitrator who has been arrayed as R1. The learned Arbitrator has narrated the facts of the case and has submitted that considering the conduct of the petitioners, he would like to recuse from the Office as there is no point in proceeding further.

5. The learned counsel for the first respondent/Arbitrator has indicated that he would like to be relieved from the proceedings in view of the conduct of the petitioners.



WEB COPY

6. I am of the view, that there is no merit in the Original Petition.

However, considering the submissions of the learned counsel for the first respondent / Arbitrator, the mandate is terminated under Section 32(2)(C) of the Arbitration and Conciliation Act, 1996. It is open for the petitioners to file appropriate application/petition for appointment of a fresh Arbitrator under Section 11(6) of the Arbitration and Conciliation Act, 1996.

7. Considering the fact that the petitioners have harassed the learned Arbitrator appointed by this Court vide order dated 15.09.2023 in O.A.No.62 of 2023, I direct the petitioners to pay a sum of Rs.50,000/- to the learned Arbitrator for wasting his time and for wasting the Court's time. It is made clear that subsequent petition to be filed by the petitioners under Section 11(6) of the Act will be entertained only subject to the petitioners paying the aforesaid amount to the learned Arbitrator and reporting compliance to the order.

8. At this stage, the petitioners and the second respondent have



Arb.O.P. (Com.Div.) No.94 of 2024

consented for appointment of an Retired Judge of this Court, as a sole Arbitrator.

9. Recording the same, **Hon'ble Mr.Justice P.Kalaiyarasan, Former Judge of this Court, (Mobile No.:9942421667)** residing at **Plot No.64, 3rd Cross Street, CBI Colony, Kandanchavadi, Chennai – 96,** is appointed as an Arbitrator to enter upon reference and adjudicate / resolve the *inter se* dispute between the parties.

10. **Hon'ble Mr.Justice P.Kalaiyarasan,** who is appointed as the Arbitrator shall after issuing notice to the parties and upon hearing them, endeavour to complete the arbitral proceedings and pass an award strictly in accordance with the provisions of the Arbitration and Conciliation Act, 1996, as expeditiously as possible, preferably within a period of twelve months after the date of completion of pleadings under Sub-Section 4 to Section 23 as is contemplated in Section 29-A of the Arbitration and Conciliation Act, 1996, without getting influenced by any of the observations made by this Court in this order. The proceeding shall commence from the stage where it was left by Mr.Sanjay Pinto.



WEB COPY

11. The learned Arbitrator appointed herein shall be paid fees and other incidental charges as may be fixed with the consent of parties or in accordance with the provisions of the Arbitration and Conciliation Act, 1996, and the same shall be borne by the parties equally. In case, the respondent remain *ex parte*, the petitioners shall pay the entire fee and other incidental charges to the Arbitrator and later recover the same from the respondent.

12. The parties are at liberty to workout the venue for Arbitration at Chennai.

13. This Original Petition is allowed, on costs as ordered. It is made clear that if the petitioners fail to pay a sum of Rs.50,000/- as ordered within four weeks from the date of receipt of a copy of this order to Mr.Sanjay Pinto, the Award to be passed will remain unenforceable.

14. Since the Court has appointed an Arbitrator, it is open to the petitioners as well as the respondent to seek other reliefs under Section 17 of the Arbitration and Conciliation Act, 1996, before the learned



Arbitrator.

WEB COPY



Arb.O.P. (Com.Div.) No.94 of 2024

27.03.2024

jas

Index : Yes / No
Internet : Yes / No
Neutral Citation : Yes / No

C.SARAVANAN, J.



WEB COPY



Arb.O.P. (Com.Div.) No.94 of 2024

jas/smn2

Arb.O.P.(Com.Div.)No.94 of 2024

27.03.2024