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Arb.O.P(Com.Div.) No.325 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.02.2024

CORAM :

THE HONOURABLE MR.JUSTICE C.SARAVANAN

Arb.O.P.(Com.Div.) No.325 of 2023

and

A.No.3655 of 2023

1.S.Sathyanarayanan

2.S.Saravanan

... Petitioners

Vs.

1.Redington (India) Limited.,
Represented by S.Srinivasan

2.J.Selvadurai

3.K.Suresh Babu

... Respondents

Prayer: Original Petition is filed under Section 34(2A) of the Arbitration and Conciliation, 1996, to set aside the Arbitral Award dated 20.11.2017 in Arbitration Proceedings No.01 of 2015 passed by the Sole Arbitrator Shri.K.Balasubramanian, District Judge Retd., at Chennai in its entirety and to direct the respondents to pay the costs.



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For Petitioners : Mr.T.Thiyagarajan
For Respondents :
For R1 : Mr.S.S.Rajesh
For R2 and R3 : Mrs.K.M.Valsala

ORDER

Heard the learned counsel for the petitioners, the learned counsel for the first respondent and the learned counsel for the second and third respondents.

2. The impugned Award dated 20.11.2017 is challenged by the petitioners on the ground that they ceased to be the partners of Firm viz., M/s.S.S.Marketing and Services and that the Partnership Firm was reconstituted on 01.10.2013.

3. The challenge to the impugned Award is also on the ground that *ex parte* Award has been passed without proper notice to either on the petitioners or on the second and third respondents.

4. The learned counsel for the second and third respondents would



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also draw attention to e-mail dated 05.03.2014 of the first respondent to the partners of the Firm, which stood reconstituted on 01.10.2013, which was also replied back by one R.Saravana Kumar, the Managing Partner of M/s.S.S.Marketing and Services.

5. It is therefore submitted that despite the same, arbitration proceedings have been initiated against the petitioners and the second and third respondents, who had no longer partners of the said Firm.

6. *Prima facie*, there are indications that the arbitration proceedings initiated against the petitioners and the second and third respondents are contrary to law inasmuch as these persons ceased to be the partners of the Firm at the time of cause of action. In any event, it appears that the entire arbitration proceedings has been initiated without proper notice to the petitioners and the respondents.

7. Under these circumstances, the impugned Award dated 20.11.2017 is set aside leaving open the parties to workout their remedy as also the persons named in the Reconstitution Partnership Deed dated



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01.10.2013 in accordance with the provisions of the Arbitration and Conciliation Act, 1996.

8. The time spent between 26.12.2014 wherein, Section 21 Notice was issued and the proceedings pending before this Court shall stand excluded for the purpose of computation of limitation under Section 43 of the Limitation Act, 1963.

9. This Original Petition is disposed of with the above observations.

No costs. Connected Application is closed.

29.02.2024

Index : Yes/No

Internet : Yes/No

Speaking Order/Non-Speaking Order

Neutral Citation : Yes/No

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C.SARAVANAN, J.



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