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A.Nos. 3986 & 4974 of 2024

C.V.KARTHIKEYAN, J.

As between the parties herein, the matter is pending before the Arbitral Tribunal relating to a Trademark UDHAIYAM (Device) which had been registered under TM No. 595393 under Class 30.

2. The applicants in A.No. 4974 of 2024 are the claimants before the Arbitral Proceedings. It is contented that the evidence on the side of the applicants before the Arbitral Tribunal had commenced and completed. The respondent had also tendered his evidence. At that time, a dispute had been raised that

(i) the original applications preferred before the Deputy Controller of Patents and Designs at Mumbai and before the Senior Joint Controller of Patents and Designs at New Delhi, with respect to Trademark No. 595393 UDHAIYAM filed in the year 1993 in the name of the applicant in A.No. 3986 of 2024; and



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(ii) the details of the firm Shri Lakshmi Agro Foods

have to be summoned from the said Offices. This aspect was put before the learned Arbitrator, who had passed the following order:-

“Heard both sides. RW-1 is already in the box and the cross examination is being continued. At this stage this application is filed for summoning those documents. Normally this Tribunal would not have entertained this application at this eleventh hour but for the fact that the respondent has categorically stated in the application that the documents submitted by the claimants in connection with the subject matter trademarks are fabricated. Admittedly the originals are not placed before this Tribunal by either party. Only photocopies/printout from the website are marked. Therefore, in order to verify the veracity of the allegation made by the respondent of the alleged fabrication of the



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documents by the Claimants, it is for the respondent to move appropriate application before the Court to summon the originals of all documents in relation to a Trademark No. 595393 and 595353-B. Accordingly, this Tribunal is granting approval to the respondent under Section-27 of the Arbitration and Conciliation Act, 1996 to move appropriate application before the Court to summoning all the original documents from the authorities concerned the authority before whom the applications were filed to get the trademark registration.

It is matter of fact that this Arbitral Proceedings is pending and dragging for a long time for some reason or other. Therefore, this Tribunal directs the respondent to move the application urgently before the Court by next week itself. Accordingly, this application is disposed of. It is made clear that the respondent will not be given anymore indulgence to make any application hereafter.



Since this application is disposed of in the above terms, continuation of the cross examination of RW-1 is deferred till 19.08.2024. The matter will be taken up on 19.08.2024 at 11.00 a.m.”

3. Consequent to the said direction, A.No. 3986 of 2024 has been filed and also keeping in mind the protraction of the proceedings before the Arbitral Tribunal, A.No. 4974 of 2024 had been filed seeking to extend the time period for completion of the Arbitral Proceedings.

4. With respect to A.No. 3986 of 2024, an objection is raised by the respondents/claimants before the Arbitral Proceedings that *dehors* this particular application seeking Original documents from the Offices at Mumbai and New Delhi, the respondent in the said application No. 3986 of 2024 had independently applied for certified copies from the Regional Office at Chennai and had also obtained the certified copies. It is therefore contended by the learned counsel that since certified copies are available, a perusal of the same should suffice for the Arbitral Tribunal to arrive at subjective satisfaction and summoning of the



originals need not be adhered to.

5. But however, this is countered by the learned counsel for the applicant in A.No. 3986 of 2024, who allege fraud and therefore state that the originals should be produced. It is stated that the certified copies had been obtained from the Regional Office at Chennai and that a perusal of the same would not enable the Arbitral Tribunal to come to a just decision on the pending issues.

6. Let me not wander into any discussion on these allegations. Once the Arbitral Tribunal had granted permission to move this Court seeking summons to be issued to the Offices at Mumbai and New Delhi to produce the original application form relating to Trademark No. 595393 UDHAIYAM, it is only appropriate that the said documents are summoned so that the learned Arbitrator would be able to come to a definite conclusion relating to the issues which are pending before him.

7. It may not be appropriate on the part of this Court to examine the correctness of such requirement sought by the Arbitral Tribunal.



These are issues under the jurisdiction of the learned Arbitrator and having expressed that it would be appropriate and prudent for him to examine the originals, necessary leverage will have to be given by this Court to permit him to examine the originals and examination of the same would be possible only by summoning the aforementioned original documents.

8. It must also be mentioned that the respondent in A.No. 3986 of 2024 had independently filed A.No. 5510 of 2024 seeking action to be taken against the applicant for allegedly stating false averments in the affidavit. This is an issue which can be examined only after counter is filed in that application.

9. I would fall back on the reasoning given by the Arbitral Tribunal for the necessity to produce the originals. This Court only being an enabling Court to issue summons for the production of the said documents, should not normally traverse into the correctness of the said expression opined by the Arbitral Tribunal.



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10. The Arbitral Tribunal will have to render an award on the basis of the materials available before the same and if the materials which are to be examined include the originals of the applications filed before the Deputy Controller of Patents and Designs at Mumbai and also before the Senior Joint Controller of Patents and Designs at New Delhi, then, the same will have to be necessarily summoned.

11. In view of that particular reason, I would allow A.No. 3986 of 2024 and direct steps to be taken to issue summons to the Deputy Controller of Patents and Designs at Mumbai and to the Senior Joint Controller of Patents and Designs at New Delhi, to produce the Trademark No. 595393 relating to UDHAIYAM (Device) application filed in the year 1993 in the name of S.Giridharan and the application details of the Firm Shri Lakshmi Agro Foods.

12. At this juncture, learned counsel for the applicant in A.No. 4974 of 2024 had pointed out that the proper authority from whom the said documents should be summoned would be the Registrar of Trademarks at Mumbai.



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13. The applicant in A.No. 3986 of 2024 is given liberty to produce the documents either from the named Officials as given in the A.No. 3986 of 2024 or from the Registrar of Trademarks at Mumbai. He may verify the correct office, from where the documents will have to be summoned and takes summons for production of the said documents from that particular office.

14. The Court places its appreciation for the learned counsel for the applicant in A.No. 4974 of 2024 for pointing out the correct Official as this would enable the applicant in A.No. 3986 of 2024 to take steps to the correct Office / Official.

15. In view of these procedures to be taken, it would necessarily protract the proceedings further for completion of Arbitral Proceedings and therefore further 12 months time is granted. from the date on which this order copy is made ready to complete the Arbitration Proceedings.

16. A.No. 3986 of 2024 stands allowed with the above direction.
A.No. 4974 of 2024 stands ordered accordingly.



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C.V.KARTHIKEYAN, J.

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