

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16-09-2025

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CORAM

THE HONOURABLE MR JUSTICE N. ANAND VENKATESH

OA No. 434 of 2025

and

Arb OP (Com Div) No.448 of 2025

OA No. 434 of 2025

1. M/s Ramlax Roadlines

By its Partners

M.L.Sivaramakrishnan

Having Office at

No.8/1- 32 A Pudusampalli,

Raman Nagar Post,

Mettur Dam – 636 403

2.M.L.Balakrishnan

S/o.M.K.Lakshmanan, Residing At

No.7A/4, Lakshmipuram, Tennur,

Tiruchirapalli 620 017.

3.M.L.Santhanagopalakrishnan

S/o.M.K.Lakshmanan,

Residing At Flat No.23,

Srinivasa Avenue Road,

Raja Annamalaipuram,

Chennai 600 028

4.M.L.Sivaramakrishnan

S/o.M.K.Lakshmanan, Residing At

No.29/30, Karpagam Avenue, 1st

Street, R.A.Puram, Chennai 600

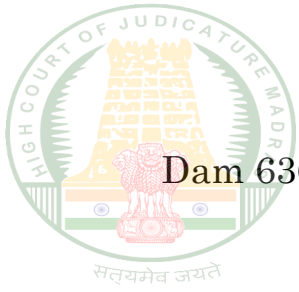
028.

5.M.L.Viswanathan

S/o.M.K.Lakshmanan, Residing At

No.36/34, Gandhi Ground,

Thangamapuripattinam, Mettur



Dam 636 402.

OA No. 434 of 2025



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Vs

Applicant(s)

1. V Vijayalakshmi
W/o.Late Mr.M.R.Venkatachalam

2.Bhuvaneshwari Ganeshan
D/o.Late M.R.Venkatachalam

3.Lakshmi Ramaswamy
D/o.Late M.R.Venkatachalam

4.Suja Ganesh
D/o.Late M.R.Venkatachalam

5.Krishnaveni Karthik
D/o.Late M.R.Venkatachalam
All Residing At Old No.28, New
No.30, 6thmain Road, Raja
Annamalai Puram, Chennai 600
028.

6.Karur Vysya Bank
Mettur Dam Branch, No.14-1/77b
Salem Main Road, Karur 636 405.

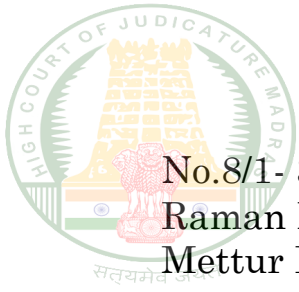
Respondent(s)

PRAYER

To pass an order of injunction restraining the respondent, their men, servants, agents or anybody claiming under them and all persons from interfering into Plaintiffs peaceful possession of the property more fully described in the schedule annexed in any manner.

Arb OP No.448 of 2026

1. M/s Ramlax Roadlines
By its Partners
M.L.Sivaramakrishnan
Having Office at



No.8/1- 32 A Pudusampalli,
Raman Nagar Post,
Mettur Dam – 636 403

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4.Suja Ganesh
D/o.Late M.R.Venkatachalam



5.Krishnaveni Karthik
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Respondent(s)

PRAYER

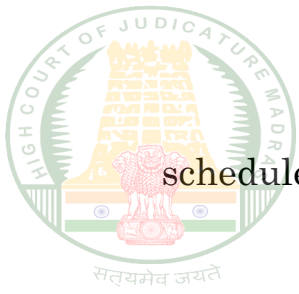
To issue notices to the respondents 1 to 5 and appoint an Arbitrator and to call the respondents for arbitration and adjudicate the same and pass an award within the statutory time limit.

Both in OA and Arb OP

For Applicant(s): M/S.Sudharshana Sunder
For M/s.Shangar
Respondent(s): Murali(836/1989)
P.Krishnaraj(869/1989)
Old.No.155, New.No.319, 1st
Floor, Linghi Chetty Street,
Chennai

COMMON ORDER

OA No.434 of 2025 has been filed under Section 9 of the Arbitration and Conciliation Act, 1996, [hereinafter called as the “Act”] for an interim injunction restraining the respondents, their men, servants and agents, any one claiming under them from interfering with the peaceful possession and enjoyment of the



schedule mentioned property.

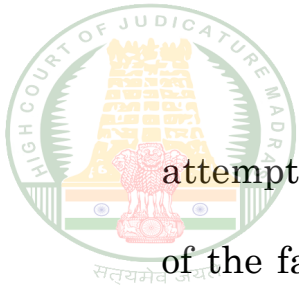
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2. Arb. OP No.448 of 2024 has been filed for appointment of an arbitrator to adjudicate the dispute between the parties.

3. The case of the petitioners is that the 1st petitioner is a registered partnership firm started in the year 1978 vide a deed of partnership dated 14.01.1978. The partnership contained only two partners viz., the 4th applicant and one Venkatachalam. The said Venkatachalam died and thereafter, the partnership was reconstituted through a deed dated 31.03.2024 consisting of applicants 2 to 5 as the partners.

4. The son of the deceased partner Venkatachalam expressed his desire to join the firm as a partner on account of the demise of his father. He was not admitted into the firm and the reconstitution deed came to be executed on 31.03.2024 consisting of applicants 2 to 5.

5. Several deliberations took place between the parties to amicably resolve the dispute. The parties were not able to reach a settlement and the legal heirs of the deceased Venkatachalam were



attempting to sell a portion of the subject property taking advantage of the fact that they retained the original documents given to them.

According to the applicant, the said property was purchased by means of two sale deeds – one in the name of late Venkatachalam and the other in the name of Sivaramakrishnan, 4th Applicant. However, the property was used only by the firm and it was always treated as the property of the firm. An attempt was made to interfere with the possession and enjoyment of the property and hence, after exchange of notices, a suit came to be filed in OS No.922 of 2024 before Principal District Court, Mettur, seeking for the relief of declaration to declare that the firm is the owner of the property and for a permanent injunction restraining the respondents / defendants from interfering with the peaceful possession and enjoyment of the property. This suit is pending.

6. The subject property in OA No.434 of 2025 was attempted to be leased / given on license to third parties and therefore, the applicant has sought for an order of interim injunction in OA No.434 of 2025.

7. Since the dispute between the parties was not able to be



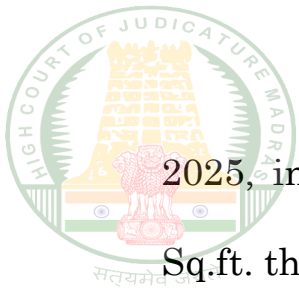
resolved inspite of exchange of notices, OP No.448 of 2025 has been filed to refer the dispute to arbitration by appointing an arbitrator.

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8. This Court has carefully considered the submissions made on either side and the materials available on record.

9. The subject property in OA No.434 of 2025 is already involved in a litigation as between the same parties in OS No.922 of 2024 on the file of the Principal District Court, Mettur. This suit was filed by the partnership firm as against the respondents, who are the legal representatives of late M.R.Venkatachalam. The cause of action for filing the said suit is that the suit property was purchased in the name of late Venkatachalam on 10.11.1978 and the said Venkatachalam died on 02.03.2024 and the defendants in the suit made attempts to dispossess the plaintiff from the suit property by alienating the property to third parties.

10. The suit property is an extent of 5000 Sq.ft. in Survey No.41/1, Veerakkalpudhur village, Mettur Sub Registrar office, Salem West, Salem. This is the property which was purchased in the name of late Venkatachalam. The subject property in OA No.434 of



2025, includes the suit property as well as another extent of 5000 Sq.ft. that was purchased in the name of the 4th applicant.

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11. If according to the petitioners, the parties are governed by an arbitration agreement under the partnership deed, it defies reasoning as to why the partnership firm had chosen to file a suit before the competent Civil Court seeking for the relief of declaration and permanent injunction with respect to 5000 Sq.ft. which stood in the name of late Venkatachalam. If the partnership firm has chosen to file a suit which is pending, the firm and the partners cannot be allowed to parallelly maintain an application under Section 9 of the Act with respect to the same suit property. In other words, the partnership firm and its partners are estopped from maintaining the application under section 9 of the Act. The suit and the application under Section 9 of the Act, touching upon the same property cannot co-exist at the same time. This is more so since it is the very same partnership firm which has filed the substantive suit seeking for declaration and permanent injunction.

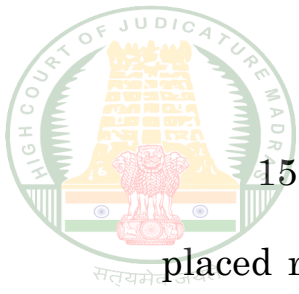
12. The above reasoning will equally apply insofar as the petition filed in Arb OP No.448 of 2025. Apart from that, according to



the petitioners, the respondents are claiming for their share from the firm pursuant to the demise of late Venkatachalam. The petitioners are relying upon Section 40 of the Act and have taken a stand that even though Venkatachalam has died, the legal heirs of Venkatachalam will be able to make their claims only under the terms of the partnership deed dated 01.04.1999, which contains an arbitration clause. The learned counsel for the petitioners also relied upon the judgement of the Apex Court in ***[Rahul Varma and others Vs. Rampat lal Varma and others]*** in SLP Civil No.4330 of 2025 dated 21.02.2025.

13. If assuming that the dispute before the arbitrator does not pertain to the property, which is a subject matter in the pending suit and it only pertains to the share that is claimed by the legal heirs of Venkatachalam, the minimum that is required on the side of the petitioners is to issue a trigger notice under Section 21 of the Act.

14. The actual arbitration proceedings commences when one party sends a notice under Section 21 of the Act to the other party communicating its intent to arbitrate the dispute.

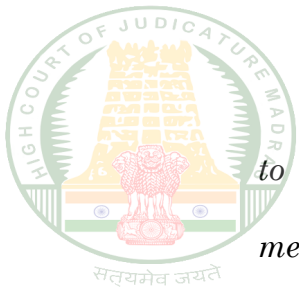


15. In the case in hand, the learned counsel for the petitioners placed reliance upon an undated reply notice that was given to the legal notice dated 27.11.2024. In that reply notice, paragraph No.16 states as follows:-

16. The allegation in Paragraph No.6 and 7 are denied. Your client is not entitle to seek dissolution as per the partnership deed. Your client had by her above narrated misdeed seem to be not interested in family reputation. Your client has all the information regarding the accounts of the partnership. Since your client is not willing to settle the matter amicably, my client is appointing Mr.A.K.Shriram, senior Advocate No.81, C.P.Ramaswami Road, Alwarpet, Chennai 600 018 as Arbitrator by invoking the arbitration clause.

16. For this reply, once again, the respondents issued a notice dated 30.12.2024 wherein they have reiterated the demand made in the earlier notice dated 27.11.2024. In reply to this notice, an undated re-joinder notice was issued and at paragraph No.16 of the re-joinder notice, it has been stated as follows:-

16. My client further state however cordial enough they have tried

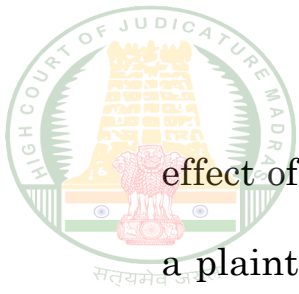


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to solve all issues through settlement talks and other amicable means with the legal heirs of deceased Mr.M.R.Venkatachalam, your clients don't seem to be want to pursue an amicable settlement nor demonstrate any willingness to settle the matter in good faith. Inspite of this reply, if your clients is not consenting for appointment of an arbitrator, my client has no other remedy but to approach the Court for a peaceful closure and your clients will be mulcted with cost and consequences thereof.

17. In the petition filed under Section 11 (6) of the Act, the petitioners have placed reliance upon only these notices.

18. At no point of time, the petitioners issued a clear and categorical trigger notice under Section 21 of the Act by clearly coming out with the dispute that has to be resolved by the arbitrator. If the petitioners are not clear about the actual dispute that has to go before the arbitrator, their reply notice / re-joinder notice for the notices that were issued on the side of the respondents, cannot be presumed to be a trigger notice under Section 21 of the Act. To maintain a petition under Section 11(5) or (6), it presupposes that a notice ought to be given under Section 21 of the Act, failing which the arbitration proceedings itself does not commence. To understand the



effect of a trigger notice under Section 21, the principle of presenting a plaint before the Civil Court must be kept in mind. When a plaint is filed before the Civil Court, it contains a cause of action and it also refers to the relief that is sought for before the Court. The notice issued under Section 21 of the Act, is almost akin to presentation of a plaint in a suit. This trigger notice must clearly spell out the particular dispute that has to be referred to the arbitration and it has to be informed to the other side. Such notice cannot be presumed by reading reply notice / re-joinder notice issued by the petitioners.

19. In the light of the above discussion, this Court holds that the present petition filed for appointment of arbitrator even without issuing a trigger notice under Section 21 of the Act, is clearly not maintainable. In the light of this finding, this Court does not want to go into the issue as to whether the legal representatives of late Venkatachalam are bound by the arbitration agreement contained in the partnership deed dated 01.04.1999 when it is an admitted case that the 1st respondent was not even permitted to join as a partner.

20. This Court does not find any merits in these applications and accordingly, both the applications filed in OA No.434 of 2025 and



OA No. 434 of 2025



the petition filed in Arbitration OP No.448 of 2025 are hereby
dismissed. No costs.

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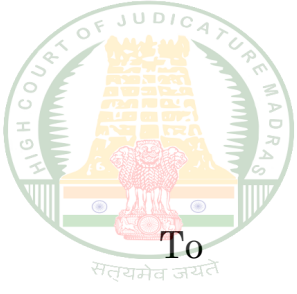
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Index:Yes/No

Speaking/Non-speaking order

Internet:Yes

Neutral Citation:Yes/No



To

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1.Vijayalakshmi
No. 8/ 1 - 32 A Pudusampalli,
Raman Nagar Post, Mettur Darn -
636 403

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OA No. 434 of 2025



N.ANAND VENKATESH J.
rka

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