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O.A.No.632 of 2024
AND
Arb.Appln.No.537 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.09.2025

CORAM

THE HONOURABLE Mr.JUSTICE N. ANAND VENKATESH

O.A.No.632 of 2024
AND
Arb.Appln.No.537 of 2024

Preetha Prasad

.. Applicant in both cases

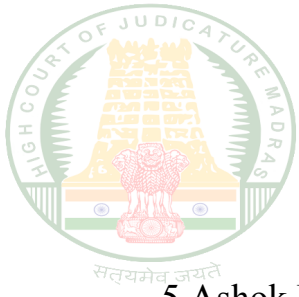
Vs.

1.M/s.LandMark Construction
Rep. by its Proprietor U.Shiva Shankar
No.24, Krishna Street
T.Nagar, Chennai 600 017

2.The Sub Registrar
Neelankarai, 1/71, 1st Floor
Kajera Garden 2nd Street
East Cast Road, Neelankarai
Chennai 600 115

3.T.Udayakumar
Having office at
No.24, Krishna Street
T.Nagar, Chennai 600 017

4.S.Kamalesh Jain
Having office at
No.24, Krishna Street
T.Nagar, Chennai 600 017



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5.Ashok Kumar Jain
Having office at
No.24, Krishna Street
T.Nagar, Chennai 600 017

6.U.Shiva Shankar
Having office at
No.24, Krishna Street
T.Nagar, Chennai 600 017

7.M.Sivarani
Plot No.19, New door No.18 & Old door No.17
Second Crescent Road
Gandhi Nagar, Adyar
Chennai 600 020

8.M.Abarajitha
Plot No.19, New door No.18 & Old door No.17
Second Crescent Road
Gandhi Nagar, Adyar
Chennai 600 020

9.M.Sintha Viswanathan
Plot No.19, New door No.18 & Old door No.17
Second Crescent Road
Gandhi Nagar, Adyar
Chennai 600 020

10.Sree Balaji Enterprises
Rep. by its Sole Proprietrix M.Sivarani
Plot 39, MGR Salai
Palavakkam, Chennai 600 041

11.Sree Balaji Cylinders Pvt. Ltd.



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Rep. by its Directors
M.Sivarani & M.Abarajitha
M.Sintha Viswanathan
No.41, MGR Salai
Palavakkam, Chennai 600 041

12.Srinivas Cylinders Pvt. Ltd.
Rep. by its Directors
M.Sivarani
M.Abarajitha
M.Sintha Viswanathan
No.40, MGR Salai
Palavakkam, Chennai 600 041

13.Sree Balaji Valves Pvt. Ltd.
Rep. by its Directors
M.Sivarani
M.Abarajitha
M.Sintha Viswanathan
No.40, MGR Salai
Palavakkam, Chennai 600 041

.. Respondents in Arb.Appln.No.537/2024

1.M/s.LandMark Construction
Rep. by its Proprietor U.Shiva Shankar
No.24, Krishna Street
T.Nagar, Chennai 600 017

2.T.Udayakumar
Having office at
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T.Nagar, Chennai 600 017

3.S.Kamalesh Jain
Having office at



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No.24, Krishna Street
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4.Ashok Kumar Jain
Having office at
No.24, Krishna Street
T.Nagar, Chennai 600 017

5.U.Shiva Shankar
Having office at
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Gandhi Nagar, Adyar
Chennai 600 020

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Plot No.19, New door No.18 & Old door No.17
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Gandhi Nagar, Adyar
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Plot 39, MGR Salai
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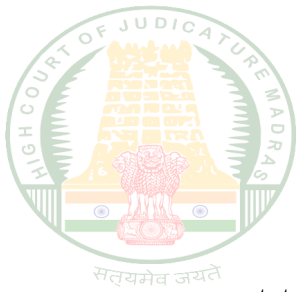
10.Sree Balaji Cylinders Pvt. Ltd.
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M.Sintha Viswanathan
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M.Abarajitha
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Palavakkam, Chennai 600 041

12.Sree Balaji Valves Pvt. Ltd.
Rep. by its Directors
M.Sivarani
M.Abarajitha
M.Sintha Viswanathan
No.40, MGR Salai
Palavakkam, Chennai 600 041

.. Respondents in O.A.No.632/2024

O.A.No.632 of 2024: Application filed under Order XIV Rule 8 of the Madras High Court Original Side Rules read with Section 9(ii)(a) of the Arbitration and Conciliation Act, 1996, to grant an *ad interim* restraining the respondents their mens, servants, employees, agents or anybody claiming thereunder from interfering with, dealing with or developing the properties in



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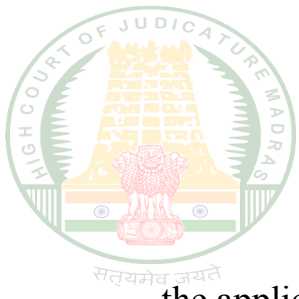
respect to villa Nos.4,5,6,9,20,24,25,27 and 28 situated at plot Nos.39,40 and 41, MGR Salai, Palavakkam, Chennai 600 041 admeasuring an extent of 1,09,289.2 sq.ft.

Arb.Appln.No.537 of 2024: Application filed under Order XIV Rule 8 of the Madras High Court Original Side Rules read with Section 9(ii)(a) of the Arbitration and Conciliation Act, 1996, to grant an *ad interim* direction directing the 2nd respondent to register documents presented by the applicant for the properties in respect to villa Nos.4,6,9,20 & 24 situated at Plot Nos.39, 40 and 41, MGR Salai, Palavakkam, Chennai 600 041 admeasuring an extent of 1,09,289.2 sq.ft.

For applicant in both cases	: Ms.K.Madhumitha
For RR6 to 8 in both cases	: Mr.V.Anantha Natarajan
For R2 in Arb.Appln.No. 537 of 2024	: No appearance

COMMON ORDER

These applications have been filed under Section 9 of the Arbitration and Conciliation Act, 1996, (for brevity, hereinafter referred to as “the Act”) for an *ad interim* direction restraining the respondents from in any manner interfering with the dealing of the subject properties and for an *ad interim* direction directing the 2nd respondent viz., The Sub Registrar, to register the documents presented by



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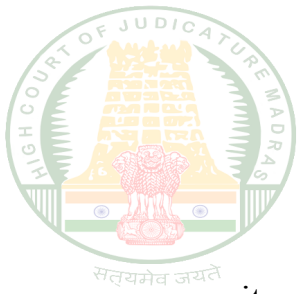
the applicant for the subject properties

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2. For the sake of convenience and clarity, the respondents will be referred to as per their rank in O.A.No.632 of 2024.

3. The case of the applicant is that her father Manoharan wanted to develop certain properties and accordingly, approached the 1st respondent. A Memorandum of Understanding (MOU) dated 19.11.2008 was entered into between the said Manoharan and the 1st respondent. In this agreement, the broad contours of the development of the properties were set out and the 1st respondent has promised to pay Rs.15crores towards the refundable deposit.

4. Subsequently, on 17.08.2009, a Joint Development Agreement (JDA) was entered into between Balaji Cylinders and other concerns with the 1st respondent, in respect of a property in Palavakkam. The parties agreed to divide the share at 50:50 and a sum of Rs.10crores was identified as refundable deposit. On the very same day, a supplemental JDA also was executed, wherein additional refundable



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security deposit of Rs.3crores was agreed to.

5. On 21.10.2009, a supplemental JDA was entered into. In the interregnum period, the said Manoharan passed away.

6. After the demise of the said Manoharan, the family members who are the applicant and respondents No.6 to 8 attempted to make some negotiations to take the contract forward. Accordingly, a supplemental JDA was entered into on 03.09.2012 between the 1st respondent and the family members and the other concerns. In the said agreement, the amount which has already been spent by the 1st respondent to the tune of Rs.15,77,36,736/- was listed and a sum of Rs.1crore was set apart for the resolution of labour disputes. According to the applicant, after the settling of sum of Rs.10crores, the villas will be handed over to the applicant and to the respondents No.6 to 8.

7. A supplemental JDA was also entered into on 03.09.2012 reiterating the same arrangement and the villas were also identified.

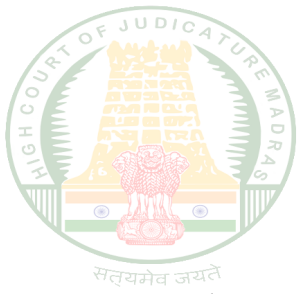


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8. The applicant and respondents No.6 to 8 were not in a position to refund the security deposit of Rs.5crores earmarked for the Adyar property. Therefore, they requested the 1st respondent to set off the said amount towards the villas. Accordingly, villa Nos.15 and 23 were set off towards a sum of Rs.5crore refundable security deposit payable while handing over the villas to the applicant and the respondents No.6 to 8 in the project at Adyar. This aspect was set out in the Supplemental JDA dated 03.09.2012.

9. Thereafter, at the request of the applicant and respondents No.6 to 8, the 1st respondent also agreed to waive a sum of Rs.76,36,736/- spent over and above the refundable security deposit of Rs.15crores. It was also captured in the supplemental JDA dated 03.09.2012. Pursuant to the above agreement, out of 28 villas in the Palavakkam project, 16 villas were identified and allotted to the 1st respondent, while 12 villas were identified and allotted to the applicant and respondents No.6 to 12. The 1st respondent also obtained the planning permission



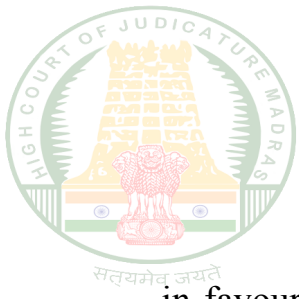
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and completed the construction by 17.02.2016. The 1st respondent also sold all the villas allotted to their share from 2017 and it was also occupied by the buyers of those villas.

10. Insofar as the applicant and respondents 6 to 8 are concerned, the 2 villas to the share of the 7th respondent were sold to the purchasers identified by the 1st respondent and 2 villas falling to the share of the 8th respondent were also sold and the customers had taken possession and are enjoying the same.

11. The specific case of the applicant is that after the family arrangement was arrived at, the 1st respondent was informed that she has been allotted 4 villas. Disputes arose between the family members and as a result, with respect to the Adyar property, the 7th respondent initiated arbitral proceedings and the arbitral proceedings subsequently got terminated. In spite of the same, the disputes continued and it has reached a stalemate with regard to Palavakkam project. A sum of Rs.10crores which was the refundable security deposit was not able to be handed over to the 1st respondent and at the same time, the villas that were allotted

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in favour of the applicant and the respondents 6 to 8 were also not sold. Under such circumstances, the parties entered into a MOU dated 05.01.2022.

12. As per this agreement, the applicant, respondents No.6 to 8 and the other concerns, appointed the 1st respondent to find out prospective purchasers for schedule-C property, except villa No.25 and coordinate for the sale of the same. Except villa Nos.3,5,10 and 25 in the schedule-C property, the rate at which the 1st respondent has to deal with was also fixed. It was also agreed that the cost for completion of the villa was fixed at Rs.60lakhs and the prospective purchaser of the villa and the sale consideration payable by the prospective purchaser was agreed to be set off towards the same. It was further agreed that on payment of the said cost and on the completion of the construction of the villa No.25, the party of the second part will complete his part of the contract. In the said MOU at Clause No.15, it was provided as follows:

“15.During the currency of this Memorandum of Understanding, if any dispute and/or difference arises at any time between the parties hereto touching or concerning or arising out of these presents or the interpretation of any clause hereof or the respective rights, claims or liabilities hereunder or otherwise however of the Parties hereto, the same shall be settled



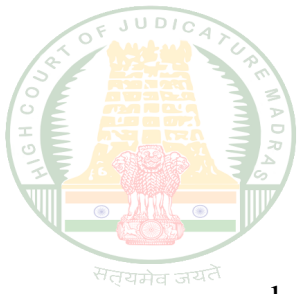
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amicably by way of mutual negotiation and conciliation. If such settlement is not reached within one month, then the dispute shall be referred to Arbitration by an Arbitral Tribunal consisting of three Arbitrators, one to be appointed by each party with the provisions for the third Presiding Arbitrator to be appointed by the said two Arbitrators before commencement of the Arbitration Proceedings. The Party invoking the Arbitration shall specify the dispute(s) to be referred to Arbitration under this clause. The Arbitration and Conciliation Act, 1996 as amended from time to time shall apply. The venue of the arbitration shall be the city of Chennai. The language of the Arbitration shall be English.”

13. The specific case of the applicant is that respondents No.6 to 8 confirmed and declared that they have no objection to the applicant allotted or selling villa Nos.6, 20 and 24 and receiving the consideration from any buyer, nominee or allottee. It did not include any no objection clause for utilising villa Nos.4 and 9, which was earlier allotted to the applicant by respondents No.6 to 8. However, this MOU also did not resolve the disputes between the parties.

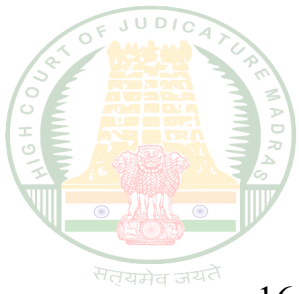
14. In view of the above, the applicant issued notice to the respondents No.2, 5 and 6 to 8 on 09.02.2023, to refrain from taking any action on the document purported to be executed by the applicant. The notices that were sent were refused to be received. Left with no other option, the applicant issued a notice to the



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respondents No.2 and 5 on 10.10.2023, demanding that they should identify purchasers within three months and fulfill their obligations under the MOU. On receipt of the same, those respondents contacted the applicant and claimed that they have identified the buyers. However, they took a stand that there were no buyers who were willing to purchase it for a rate of 6.25crores, even though there was a clear condition stipulated in the MOU.

15. The further grievance of the applicant is that all the villas that were allotted to the 1st respondent have been sold and are currently occupied. That apart, except villa Nos.25, 27 and 28 which are owned by the 7th respondent, the villas which came to the share of the applicant viz., villa Nos.4,6,9 and 24 remain unsold. Hence, the applicant has sought for an injunction restraining the respondents from in any manner interfering with or deal with or developing the properties with respect to villa Nos.4,5,6,9,20,24,25,27 and 28. The applicant has also sought for an interim relief as against the 2nd respondent in Arb.Appln.No.537 of 2024 viz., The Sub Registrar to register the documents presented by the applicant for the said properties.



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16. The respondents No.1,2,5 and the 6th respondent on behalf of herself and on behalf of the respondents No.7 and 8 have filed individual counter affidavits. They have denied all the claims made by the applicant. They have also denied the fact that there was any independent arbitration agreement as between the applicant and the respondents No.6 to 8. Accordingly, they have sought for the dismissal of these applications.

17. This Court considered the submissions made on either side and the materials available on record.

18. Considering the fact that the actual dispute was between the family members, this Court attempted to resolve the dispute by referring the parties for mediation. However, in spite of best efforts, the parties were not able to resolve the dispute between themselves. In the meantime, CIRP proceedings have been initiated against the 1st respondent and a Resolution Professional has been appointed by the NCLT. The learned counsel appearing for the Resolution Professional also informed this Court that he has no say in these applications and insofar as the 1st respondent Company is concerned, it is involved in the proceedings and that he will initiate appropriate proceedings before the NCLT.

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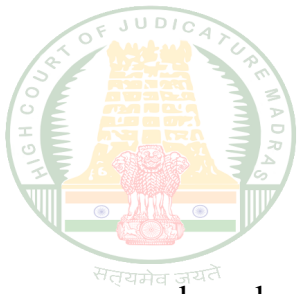


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19. The applicant claims that she has been allotted villa Nos.4, 6, 9, 20 and 24 situated at Plot Nos.39, 40 and 41, M.G.R. Salai, Palavakkam, Chennai 600 041, admeasuring an extent of 1,09,289.2 sq.ft., pursuant to which, a Resolution was passed by the respondents No.9 to 12 in both the applications. The applicant also claims that the respondents No.6 to 8 are her sisters. According to the applicant, the respondents No.6 to 8 have already alienated some of the villas allotted to them, but, they are preventing the applicant from dealing with the villas allotted to the applicant, pursuant to the Board Resolutions passed by the respondents No.9 to 12. The applicant also claims that her mother, who claims to be a proprietor of the 9th respondent, must join the execution of the sale deed in respect of the applicant's villas, but, she is refusing to join the execution of the sale deed.

20. The applicant has also filed documents along with this application, which includes the Encumbrance Certificate and which according to the applicant will reveal that the respondent No.7, who is the applicant's sister, has already alienated one villa in favor of a third party. The learned counsel for the applicant



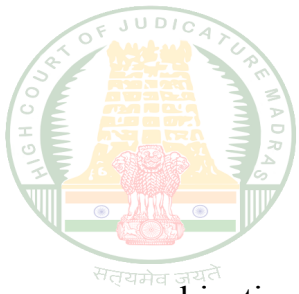
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also drew the attention of this Court to the Board Resolutions passed by respondents No.9 to 12 dated 06.01.2020 signed by all the Directors of the said company, which includes respondents No.6 to 8 and the applicant, permitting the applicant to sell the villas, which was allotted to her.

21. According to the applicant, though all the Directors of the respondents No.9 to 12 had agreed that they will join in the execution of the sale deed in respect of the villas allotted in favour of the applicant, they are now not willing to join in the execution of the sale deed in respect of the villas allotted to the applicant.

22. The applicant has also categorically stated that the other Directors of the respondents No.9 to 12 are making use of the Board Resolutions and are attempting to sell their respective allotments. The applicant has also placed on record before this Court, the encumbrance certificate, which reveals that in respect of one villa, another Director by name Abarajitha, the sister of the applicant, has already sold the said villa to a third party on 20.09.2023.

23. The learned counsel for the applicant would submit that due to the



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objections raised by the other Directors before the Sub Registrar Office, the applicant was unable to sell her villas as per the Board Resolutions passed by respondents No.9 to 12.

24. On an overall assessment of the nature of disputes that have been projected in these applications, it is more a dispute as between the family members and since the applicant is not able to deal with the villas which is said to have been allotted in her favour, only due to the objections given by the family members and the Board Resolution passed by the respondents No.9 to 12. There is also a dispute as against the 1st respondent, insofar as the 1st respondent not fulfilling the obligations under the agreement and the 1st respondent taking a very specific stand that the applicant and respondents No.6 to 12 are bound to refund security deposit of Rs.10crores along with interest and only if the said amount is paid, the 1st and 2nd respondents will handover the possession of the villas and exit from all the arrangements. The dispute is going on for quite some time and the attempts made by this Court to resolve amicably did not yield any fruits. In view of the same, this Court is of the considered opinion that it is high time that the dispute is referred to an Arbitrator to resolve the same between the parties.

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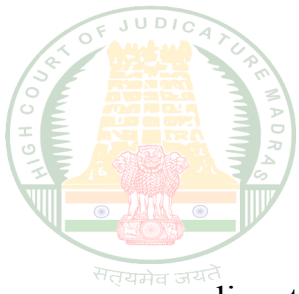
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25. Learned counsel for respondents No.6 to 8 submitted that there is no arbitration agreement as between the applicant and respondents No.6 to 12 and the MOU dated 05.01.2022 is not between the applicant and the respondents No.6 to 12. But, it was actually between the applicant and the respondents No.6 to 12, who are parties of the first part and the 1st respondent, who is the party of the second part. Therefore, the *inter se* dispute between the party of the first part, cannot be resolved before the learned Arbitrator.

26. In reply to the above submission, the learned counsel for the applicant submitted that there is actually a dispute with the 1st respondent also and therefore, that has to be necessarily resolved by only referring the parties to the arbitration.

27. In the considered view of this Court, the MOU dated 05.01.2022 contains an arbitration clause and the said clause has also been extracted *supra*. When this Court posed a question to the learned counsel appearing on either side as to whether any Arbitrator can be appointed by this Court, the learned counsel appearing on behalf of the respondents No.6 to 8 submitted that his clients have not given consent for appointment of Arbitrator. However, the learned counsel for the

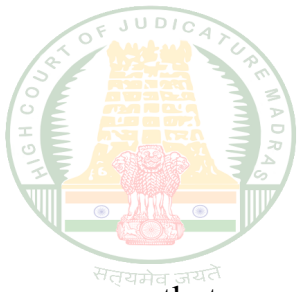


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applicant submitted that the applicant leaves it to this Court to appoint an Arbitrator in order to resolve all the disputes between the parties. None appeared on behalf of the 1st respondent. Ultimately, the arbitration clause provides for resolution of dispute between the applicant and the respondents No.6 to 12 on the one part and the 1st respondent on the other. The arbitration agreement at Clause 15 provides for appointment of an Arbitral Tribunal, whereby, there will be one Arbitrator appointed by each party and the third Presiding Arbitrator will be appointed by the other two Arbitrators. The 1st respondent has not appeared before this Court and has not given the name of any Arbitrator to be appointed. Hence, this Court deems it fit to appoint a sole Arbitrator in this case, considering the nature of dispute between the parties.

28. In view of the above, ***Hon'ble Mr.Justice R.Subramaniam, Former Judge of Madras High Court, (Mobile Nos.98402 99941, 94440 94402), residing at No.6/29, Flat No.1B, Vishwanath Apartments, 5th Main Road, R.A.Puram, Chennai 600 028, is appointed as sole Arbitrator*** to resolve the dispute between the parties under the JDA dated 17.08.2009 and the MOU dated 05.01.2022 and other supplemental agreements

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that were entered into between the parties, during the interregnum.

29. The parties are directed to maintain *status quo* as on today and it will be left open to the parties to move appropriate application before the sole Arbitrator under Section 17 of the Act and seek for appropriate interim relief.

In the result, the Original Applications and the Arb. O.Ps. are disposed of in the above terms.

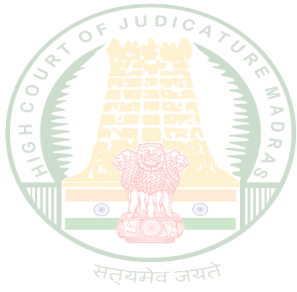
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Index : Yes/No

Neutral Citation : Yes/No

**Registry to communicate this order
forthwith to the learned Arbitrator**



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