IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24-03-2026

CORAM

THE HON'BLE MR JUSTICE SENTHILKUMAR RAMAMOORTHY

OA Nos. 141 & 142 of 2026

In both applications

Ragul Sekar, son of S. Sekar
Erstwhile Working Partner M/s SRM Construction
9/450, Kasapettai, Ms Mangalam Village, Aval
Poondurai, Erode 638 115.

..Applicant(s)

Vs

1. S.Boopathy
   Son of P.R.Subramani,
   Erstwhile Managing Partner
   M/s SRM Construction,
   9/450, Kaspapettai,
   Aval Poondurai, Erode
   638 115.

2. B. Mylambiga, W/o.Mr.S.Boopathy,
   Erstwhile Managing Partner M/s SRM
   Construction, 9/450, Kaspapettai Aval
   Poondurai, Erode 638 115

3. B. Pravesh Krishna, S/o.S.Boopathy,
   Erstwhile Managing Partner M/s SRM
   Construction 9/450, Kaspapettai,
   Aval Poondurai, Erode-638 115

..Respondent(s)

PRAYER in O.A.No.141 of 2026: Judge's summons filed under Order XIV Rule 8 of O.S.Rules read with Section 9(1)(ii)(d) of Arbitration and Conciliation Act, 1996 and Section 2(1)(C)(xviii) and Section 10(2) of the Commercial Courts Act, 2015, praying to pass an order of interim injunction restraining the Respondents, their agents, employees and any persons claiming through or under them, from in any manner entering into new contracts, participating in new tenders, undertaking any fresh works or carrying on any new business in the name and style of M/s. SRM Construction, save and except such acts as are strictly necessary for the limited purpose of winding up the affairs of the dissolved firm.

PRAYER in O.A.No.142 of 2026: Judge's summons filed under Order XIV Rule 8 of O.S.Rules read with Section 9(1)(ii)(d) of Arbitration and Conciliation Act, 1996 and Section 2(1)(C)(xviii) and Section 10(2) of the Commercial Courts Act, 2015, praying to pass an order of interim injunction restraining the Respondents, their agents, employees and any persons claiming through or under them, from executing the work order, if any, issued in favour of M/s SRM Construction in E tender bearing Tender ID 2025_ AHDF_634605_ 1 dated 18.12.2025, issued through E-Tender Notice Inviting No. 18/DB/F. 114 N/2025 dated 16.12.2025.

<u>In both OAs</u>

For Applicant(s): M/s T.K.Bhaskar
K.Harishankar
R.Karthik Chandran
S.Vikashini

For Respondent(s): Mr.V.Raghavachari, Senior Advocate,
for M/s A.Mohamed Ismail

<u>ORDER</u>

The applicant and respondents had formed a partnership firm named M/s SRM Construction. Disputes arose between the parties *inter alia* in relation to non-disclosure of information relating to the bank accounts and other transactions of the firm to the applicant. After issuing dissolution notice dated

24.12.2025, the applicant has applied for interim relief restraining the respondents from entering into new contracts or carrying on any new business in the name of the partnership. On 18.02.2026, an ad-interim injunction was issued as prayed for.

2. The contentions of learned counsel for the applicant may be summarized as under:

i. The partnership deed expressly provides that it is a partnership at will. Because the applicant issued a dissolution notice, the partnership stands dissolved upon receipt thereof by all the other partners;

ii. The respondents admitted at paragraph 6 of the counter that it is a partnership at will. In *Ramar Coir Industries v. Dhana Natarajan and Another, 2024 SCC OnLine Mad 9437*, this Court affirmed the right of a partner to seek dissolution by characterizing it as a statutory right. In *Yamini Kalique and Others v. Mukhtar Alam, 2021 SCC OnLine Cal 1357,* it was held that the partnership firm does not cease to be a partnership at will merely because the deed of partnership provides for or enables retirement by a partner; and

iii. The applicant has shown manifest intent by issuing a notice under Section 21 of the Arbitration and Conciliation Act, 1996 shortly after filing this application.

3. The contentions of learned senior counsel for the respondents may be summarized as under:

a) The partnership firm has existed for a considerable period of time and has undergone more than one reconstitution;

b) The applicant has only a 10% share in the profits and losses of the partnership firm;

c) The applicant's father and brother carry on competing businesses. They endeavoured to prevent the partnership firm from being awarded a contract by the State. Because they were unsuccessful, the applicant has filed this application in furtherance of their business interest and not in furtherance of the interest of the partnership firm.

4. In support of these contentions, he relied upon the following judgments:

(i) *M.O.H.Uduman and Others v. M.O.H.Aslum, (1991) 1 SCC 412 (M.O.H. Uduman)*.

(ii) Order of the Himachal Pradesh High Court in *Nitin Gupta v. Arrpit* Aggarwal in Arb.Case No.116 of 2025 dated 21st August, 2025 (*Nitin Gupta)*.

(iii) *V.H.Patel & Company and Others v. Hirubhai Himabhai Patel and Others, (2000) 4 SCC 368 (V.H.Patel)*.

(iv) *Commissioner of Income Tax, West Bengal-III v. M/s.Pigot Champan & Company, (1982) 2 SCC 330.*

(v) *Wazid Ali Abid Ali v. Commissioner of Income Tax, Lucknow, 1988 (Supp) SCC 193 (Wazid Ali).*

(v) *Pamuru Vishnu Vinodh Reddy v. Chillakuru Chandrasekhara Reddy and Others, (2003) 3 SCC 445 (Pamuru Vishnu Reddy).*

5. In course of rejoinder, learned counsel for the applicant distinguished the judgments relied on by learned senior counsel for the respondents. As regards the judgment of the Hon'ble Supreme Court in *M.O.H. Uduman*, he submitted that the question for consideration there was whether it is a partnership at will. As regards *Nitin Gupta* , he submitted that the partnership deed specified that consent of other partners is necessary for dissolution. In *V.H.Patel,* he pointed out that the question was whether an arbitral tribunal could dissolve the partnership on just and equitable grounds. He also contended that *Wazid Ali* dealt with the consequences of death of the partner and that *Pamuru Vishnu Reddy* dealt with the question whether a retired partner could seek dissolution. He also relies upon judgments relating to the scope of Sections 47 and 53 of the Partnership Act, 1932 (the Partnership Act. It is sufficient to draw reference to *Saligram Ruplal Khanna and Another v. Kanwar Rajnath, (1974) 2 SCC 642, (paragraphs 30 and 31) and Mohansundaram v. Neelambal, AIR 1955 Mad 442*.

6. The dispute resolution clause in the partnership deed is as under:

> *"13. That all the disputes and questions in connection with the Partnership shall be referred to an arbitrator appointed by the partners and the arbitrator decision shall be final and binding on the Partners."*

In view of the above clause, these applications are maintainable under Section 9 of the Arbitration and Conciliation Act, 1996 (the A&C Act).

7. Clause 10 of the partnership deed is particularly relevant for purposes of this application. Said clause is as under:

> "*10. The Partnership shall be one "AT WILL. However, if any partner wants to retire a notice shall be given to other partners allowing 3 (THREE) months time in writing."*

Relying on this clause, the applicant contended that it is a partnership at will. Paragraph 6 of the counter affidavit, which reads as under, is relevant in this regard:

> *"6. It is submitted that the averments in paragraph 3 of the affidavit as to the percentage of shares in the firm by the respective partners are admitted. It is correct to state that the partnership is at will, however Clause 10 the Partnership Deed as referred to in paragraph 5 of the affidavit, only provides for three months' notice for a partner to retire."*

Referring to paragraph 6, learned counsel for the applicant contended that the respondents admit that it is a partnership at will. In response, learned senior counsel for the respondents submitted that the paragraph should be read as a whole and, if so read, the conclusion that follows is that a partnership at will was understood as referring to a partnership from which a partner could retire.

8. Upon *prima facie* consideration, I am of the view that it appears to be a partnership at will. It is, however, neither appropriate nor necessary to draw a definitive conclusion on this issue. It is for the arbitral tribunal to determine this and other issues arising out of the dispute.

9. As regards a partnership at will, Section 43 of the Partnership Act enables dissolution by any partner by giving notice in writing to all the other partners of the intention to dissolve the firm. The firm stands dissolved from the date mentioned in the notice as the date of dissolution or, if no date is specified, from the date of receipt of the notice.

10. Notwithstanding the conclusion that it appears *prima facie* to be a partnership at will, other aspects should also be taken into account. It was submitted on behalf of the respondents that there are 200 people working for the partnership firm and that several contracts are being executed at present. Unlike a limited company, which is dissolved after winding up, a partnership firm is dissolved prior to winding up. Consequently, Section 47 of the Partnership Act prescribes as under:

> *"**47. Continuing authority of partners for purposes of winding up.—**After the dissolution of a firm the authority of each partner to bind the firm, and the other mutual rights and obligations of the partners continue notwithstanding the dissolution, so far as may be necessary to wind up the affair of the firm and to complete transactions begun but unfinished at the time of the dissolution, but not otherwise:*
>
> *Provided that the firm is in no case bound by the acts of a partner who has been adjudicated insolvent; but this proviso does not affect the liability of any person who has after the adjudication represented himself or knowingly permitted himself to be represented as a partner of the insolvent."*

As is evident on reading Section 47, the authority of each partner to complete transactions which began prior thereto but remain unfinished at the time of the dissolution is preserved during the course of winding up.

11. In the case at hand, the respondents contend that the partnership has not been dissolved. As recorded earlier, a definitive conclusion on this issue cannot be recorded in these applications. Therefore, an appropriate balance should be struck to preserve the rights of the rival parties pending adjudication by way of arbitration. Towards that end, I permit the respondents to perform obligations and complete work under all contracts that were awarded prior to the receipt of the order of interim injunction. The respondents are directed to provide a list of contracts under execution by filing an affidavit before this

Court and providing a copy thereof to the applicant. This shall be done within two days from today. As regards fresh contracts, there shall be an order of interim injunction restraining respondents from applying for or accepting such contracts. This order shall operate for a period of 30 days from the date of the arbitral tribunal entering upon reference. Parties are granted leave to apply to the arbitral tribunal for similar or other interim relief.

12. With the consent of both parties, Mr. Justice Sanjib Banerjee, retired Chief Justice of this Court and the Meghalaya High Court, Greater Kailash I, C96, New Delhi-110 048, (Mobile No.91-9836268256), Email ID-sanjibbanerjee@gmail.com, is appointed as the sole arbitrator. Learned arbitrator is requested to enter upon reference and adjudicate the dispute. The fees and expenses may be fixed by the sole arbitrator in consultation with the parties, including by reference to Schedule IV of the A&C Act, if considered appropriate.

13. O.A.Nos.141 & 142 of 2026 are disposed of on the above terms.

24-03-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

KAL

To

Mr. Justice Sanjib Banerjee,
Former Chief Justice of the Madras High Court and
the Meghalaya High Court, Greater Kailash I,
C96, New Delhi-110 048,
(Mobile No.91-9836268256),
Email ID-sanjibbanerjee@gmail.com

SENTHILKUMAR RAMAMOORTHY, J.

KAL

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