

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON
16.07.2026PRONOUNCED ON
07.09.2026

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THE HON'BLE MR.JUSTICE K.KUMARESH BABU

A No. 5993 of 2024
and ARB O.P No. 39 of 2026**A No. 5993 of 2024**

C.Velusamy,
S/o.Chellappan
No.4/ 1, Annapoorani Nagar,
Palani Andavar Mill (backside),
Udumalpet,Thiruppur District.

..Applicant(s)

Vs

K .Indhera
D/o.Mr.G.Krishnasamy
No.3,Nehru Street,
Opp to Annavasal Hotel,
Udumalpaet-642126.

..Respondent(s)

Arb O.P No. 39 of 2026

M/s.G Square Realtors (P) Ltd
Represented By Its Authorised Signatory,
E.Udayakumar,
Memon Eternity, 8th Floor,
1st Main Road, Austin Nagar,
Alwarpet, Chennai

..Petitioner(s)

Vs

1. M/s Balamurugan Spinners Pvt Ltd
Represented by Its Managing Director,
Ms.G.K.Indhera,
Having Registered Office at
Thanthoni Village, Thungavi Post,
Udumalpet.



2. Ms.G.K.Indhera
Managing Director,
M/s Balamurugan Spinners Pvt Ltd
D/o.Mr.Krishnasamy, D.No 3W, 221,
Pallivasal Pinpura Sivasakthi Colony,
Udumalpet.

Presently residing at
Door No 3/15, Nehru Street,
Udumalpet – 642 126

3. C Velusamy

..Respondent(s)

PRAYER in A No. 5993 of 2024:- Application filed to extend the time period for conclusion of the Arbitral proceedings between the Applicant/Claimant and the Respondents/Respondents by a further period of 125 days till up to 25.06.2024

PRAYER in Arb O.P No. 39 of 2026:- Arbitration Original Petition filed under Section 11(5) of the Arbitration and Conciliation Act, 1996 to

i) Appoint an arbitrator to adjudicate the disputes between the petitioner and the respondent in terms of the arbitration agreement dated 04.03.2024;

ii) Direct the respondent to pay costs and

iii) Grant such further reliefs as this Hon'ble Court may deem fit under the circumstances of the case and thus render justice.



A No. 5993 of 2024

For Applicant(s): Mr.R.Vidhya Shankar

For Respondent(s): Mr.K.Vijayan
for M/s. HSR Adovcates

Arb O.P No. 39 of 2026:-

For Petitioner(s): Ms.R.Varalakshmi

For Respondent(s): Mr.K.Vijayan for RR1 & 2
for M/s. HSR Adovcates

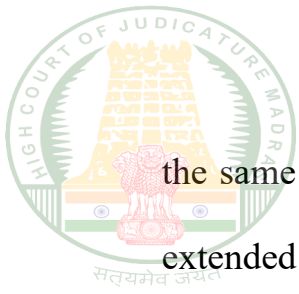
Mr.R.Vidhya Shankar for R3

COMMON ORDER

The present application has been filed by the applicant/ claimant seeking to extend the time period for conclusion of the Arbitral proceedings between the Applicant/Claimant and the Respondents/Respondents by a further period of 125 days till up to 25.06.2024

2. An Arbitration Original petition has been filed by the petitioner seeking to appoint an Arbitrator to adjudicate the disputes between the petitioner and the respondent in terms of the arbitration agreement dated 04.03.2024 and to direct the respondent to pay costs and

3. Originally an application filed by the claimant for extension of the mandate was negatived by this Court and Special Leave Petition filed against



the same was allowed holding that a mandate which had expired could also be extended by a subsequent application. However, the Hon'ble Apex Court had specifically held that the Award passed by the learned Arbitrator in this case after the expiry of the mandate to be an ineffective and unenforceable Award and had restored the present application for being dealt with on merits. However, it is the case of the third party that pending the Award proceedings, a Tripartite Agreement had been entered on 04.03.2024 between itself and the parties to the earlier proceedings. Hence, the agreement upon which the arbitration proceedings were initiated had been novated and therefore, a fresh Arbitrator had to be appointed for resolution of the disputes between the parties.

4. In view of the same, the parties are referred to as per their ranks in the Original Petition.

5. Heard the learned counsels appearing for their respective parties in both the Application and Original Petition.

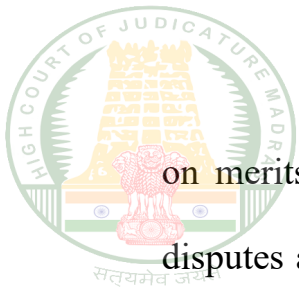
6. Learned counsel appearing for the third respondent would submit that in view of the orders of the Hon'ble Apex Court, the time line for completing the arbitral proceedings can now be extended to by this Court. He would contend that in the arbitration proceedings arguments had been heard by the learned Arbitrator and written arguments have been filed by the respective



parties and in that regard it could be useful only to extend the mandate to enable the learned Arbitrator to pass a fresh Award in view of the earlier Award passed by the learned Arbitrator had been held to be unenforceable by the Hon'ble Apex Court.

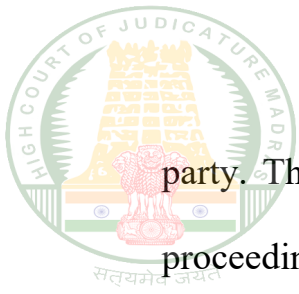
7. However, countering his arguments, the learned counsel appearing for the respondents 1 & 2 of whom the second respondent is the only respondent in the application for extension would oppose the same by contending that there would be an element of prejudice, as pre-conception in the mind of the learned Arbitrator as he had already passed an Award and which had been held to be non-est by the Hon'ble Apex Court. He would submit that the Hon'ble Apex Court had also envisaged that this Court could also substitute the Arbitrator, who shall from such stage of proceedings of which the mandate had expired will continue the proceedings and conclude the same within the time granted by this Court.

8. He would submit that the arguments were concluded and the written arguments were filed as early as on 16.09.2023 which was made after the parties have jointly filed a Memo for extension of the mandate which had expired on 20.09.2023. The proceedings were again re-opened as there were settlement talks between the parties and on 30.01.2024, it was reported by the learned Arbitrator that the settlement talks had failed and Award can be passed



on merits. However, on 19.02.2024, the mandate had expired and as further disputes arose criminal proceedings were initiated. Thereafter, on 04.03.2024 a Tripartite Agreement had been entered between the claimant and the respondent along with the third party who had now filed the application under Section 11 for appointment of an Arbitrator. The learned Arbitrator had proceeded to pass an Award on 25.06.2024 after the expiry of the mandate and after which an Application had been filed for extension of the mandate to give life to a non-est Award. He would further submit that in a challenge to the Award made by the learned Arbitrator after the expiry of the mandate, in a Section 34 Application the same was declared as nullity by orders of the Commercial Court, Coimbatore dated 14.02.2025. Since, there has been a novation of the earlier Agreement upon which the arbitral proceedings have been initiated there is no necessity for extending the mandate and an Arbitrator could be appointed to adjudicate the dispute arising out of the Tripartite Agreement which came to be entered between the parties on 04.03.2024. Hence, prays this Court to pass appropriate orders.

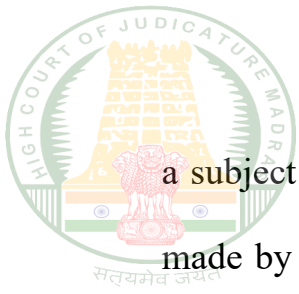
8. Learned counsel appearing for the petitioner supporting the arguments of the learned counsel appearing on behalf of the respondents 1 & 2 would submit that the respondents 1 & 2 had received a sum of Rs.1,00,00,000/- as an advance of the sale consideration and had entered into a Tripartite Agreement, wherein the third respondent who was the earlier agreement holder was also a



party. The third respondent had agreed to withdraw all the suits and pending proceedings against the second respondent and also gave his concurrence for the sale of the Schedule-B property which was a part of the agreement upon which the earlier arbitration proceedings were initiated. In that regard he would submit that there is an express novation of the earlier terms of the contract between the respondents 2 & 3 in offering the property involved in the *lis* to be sold to the petitioner. Hence, there will be no useful purpose in extending the mandate and would submit that an Arbitrator could be appointed for resolution of the disputes between the parties in terms of the agreement dated 04.03.2024.

9. I have considered the submissions made by the learned counsels appearing on behalf of their respective parties and perused the materials available on record.

10. Admittedly, the second and third respondents had entered into an agreement and disputes had arisen between them, the same was referred to a sole Arbitrator appointed by this Court in A.O.P.No.2 of 2022 dated 19.04.2022. It is also an admitted case that a Tripartite Agreement had been entered into between the parties, but, it is the case of the third respondent that the same could be acted upon only on a compromise being recorded before the Arbitral Tribunal. It is also an admitted case that the learned Arbitrator had passed an Award much after the mandate had expired. The said Award was also

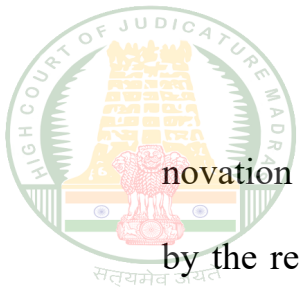


a subject matter of challenge under Section 34 of the Act and noting the order made by this Court earlier in the above captioned application had set aside the Award dated 11.05.2024 passed by the learned Arbitrator.

11. The Hon'ble Apex Court while dealing with the order dated 24.01.2025, even though the same was interfered with, had also held that the Award passed after the expiry of the mandate is ineffective and unenforceable. Further, the Hon'ble Apex Court while interpreting Section 29A (6) & (7) had held it to safeguard the conduct and conclusion of the arbitral proceedings. That apart, it should be seen that the power vested for substitution under the Act is to only bring to a logical conclusion the disputes that had arisen between the parties.

12. As noted above, admittedly, an Award had been passed on merits by the learned Arbitrator after the expiry of the mandate. The said Award had been held to be a non-est Award having no effect or enforceability as the same had been made after the expiry of the period of mandate provided under the Act.

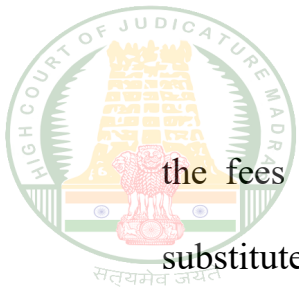
13. Various contentions have been raised by the respective parties particularly the third respondent for extension of the mandate for the learned Arbitrator to pass the Award which had been stoutly opposed to by the petitioner and the respondents 1 & 2 on the ground that there has been a



novation of the Agreement. It is to be noted that the issues that has been raised by the respective parties touch upon the merits of the arbitral proceedings and any findings given on the same may have a bearing on the learned Arbitrator's mind in dealing with the issues.

14. There is no dispute that a Tripartite Agreement had been entered between the parties pending the arbitral proceedings on 04.03.2024. The disputes that have been pending before the arbitration would also have to be resolved. Even in relation to the arguments made by the respondents 1 & 2 and the petitioner namely novation, fresh disputes have also arisen on the alleged novated agreement dated 04.03.2024 and the petitioner had taken out an O.P. for appointment of an Arbitrator. The said agreement also embeds within itself a Clause for arbitration and trigger notice under Section 21 have also been issued by the petitioner which remains unanswered to the respondents.

15. Thus extending the mandate of the learned Arbitrator who had already heard the matter and passed a detailed Award in the opinion of the Court would carry an element of prejudice in it. In that regard, this Court is of the view that the learned Arbitrator so appointed by this Court earlier could be substituted. In the aforesaid judgment, the Hon'ble Apex Court had also observed that this Court would have to weigh the circumstances while dealing with the Application under Section 29A by either putting the party on terms or deduct

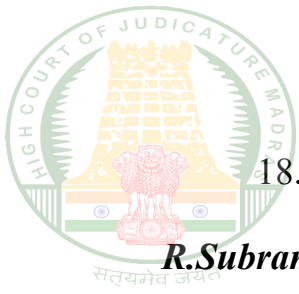


the fees of an Arbitrator if a delay had been caused at his behest or even substitute the learned Arbitrator, if situation so demands.

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16. In the present case, as this Court is of the view that there could be an element of prejudice in the learned Arbitrator as he had already passed a detailed Award, which had been set aside under Section 34 petition as also held to be a non-est Award by the Hon'ble Apex Court, this Court is of the view that it could only be appropriate to substitute an Arbitrator.

17. As held by the Hon'ble Apex Court in various decisions that a logical conclusion would have to be brought to the arbitration proceedings and also of the fact that a fresh arbitral disputes between the parties over the very same property had now arisen. As this Court had taken a view to substitute the Arbitrator and considering the nature of the agreement involved, this Court is of the view that a sole Arbitrator could be appointed in the petition filed under Section 11(6) and he can also be substituted in the place of the earlier Arbitrator. In the pending proceedings the pleadings have been completed and evidence have also been recorded. The learned Arbitrator so substituted can proceed from such stage of hearing the parties and thereafter pass an Award. The objections raised by the petitioner and respondents 1 & 2 with regard to the novation can also be decided by the learned Arbitrator.



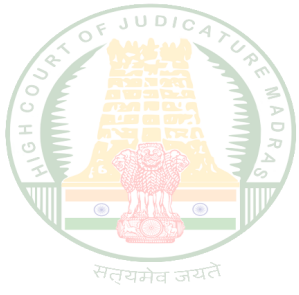
18. Accordingly, this Court appoints ***Hon'ble Mr. Justice R.Subramanian***, former Judge of this Court residing at ***No.6/29, Flat No.1B, Vishwanath Apartments, 5th Main Road, RA Puram, Chennai – 600 028*** and also substitutes as Arbitrator in the place of learned Former District Judge Mr.J.V.Raj to enter upon the reference and resolve the disputes between the parties. He is entitled to fix his own fees. This Court further requests the learned Sole Arbitrator to endeavour to decide the dispute as expeditiously as possible.

19. Accordingly, the O.P. and application stands disposed of. However there shall be no order as to costs.

07.09.2026

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

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K.KUMARESH BABU J.

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