

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE V.G.ARUN

FRIDAY, THE 29TH DAY OF APRIL 2022 / 9TH VAISAKHA, 1944

OP(C) NO. 982 OF 2021

PETITIONER/S:

- 1 MCEES TRADING
DOOR NO.34/767 A, GESIMA, KRRA-78,
KANNANTHODATH ROAD, EDAPALLY, KOCHI-682 024,
REPRESENTED BY THE PARTNER ANOOP UNNIKRISHNAN.
- 2 ANOOP UNNIKRISHNAN,
THE PARTNER, M/S. MCEES TRADING, DOOR NO.34/767
A, GESIMA, KRRA-78, KANNANTHODATH ROAD,
EDAPALLY, KOCHI-682 024.
- 3 SUNIL KUMAR.T.K.,
THE PARTNER, M/S. MCEES TRADING, DOOR NO.34/767
A, GESIMA, KRRA-78, KANNANTHODATH ROAD,
EDAPALLY, KOCHI-682 024.
BY ADVS.
P.K.SURESH KUMAR (SR.)
SRI.C.HARIKUMAR
SRI.RENJITH RAJAPPAN
SRI.VIZZY GEORGE KOKKAT

RESPONDENT/S:

- 1 JACOB GEORGE
AGED 38 YEARS
S/O.LATE GEORGE, NO.22, 2ND CROSS, VENKATESWARA
LAY OUT, S.G.PALAYA, DRC POST, BANGALORE,
KARNATAKA-560 029.
- 2 JOHNSON STEPHEN,
PALLICKA HOUSE, KOTTAMAM, KALABATAPURAM ROAD,
KALADY, ERNAKULAM DISTRICT-683 574.
- 3 THE STATE BANK OF INDIA,
MAMAMNGALAM BRANCH, DOOR NO.34/1860A, THAPASYA
TOWER, MAMANGALAM, PALARIVATTOM P.O.,
ERNAKULAM-682 025, REPRESENTED BY ITS BRANCH
MANAGER.
- 4 THE CANARA BANK,
TRIPUNITHURA BRANCH, HOSPITAL ROAD, POST BOX
NO.3, TRIPUNITHURA, ERNAKULAM-682 301,
REPRESENTED BY ITS BRANCH MANAGER.
- 5 BANK OF BARODA,
PALARIVATTOM BRANCH, 1ST FLOOR, 34/1860 A,

PALARIVATTOM EDAPPALLY ROAD, MAMANGALAM,
EDAPPALLY, ERNAKULAM-682 024, REPRESENTED BY
ITS BRANCH MANAGER.

- 6 THE FEDERAL BANK LTD.,
ERNAKULAM BYE PASS BRANCH, HIGHWAY HEIGHTS,
N.H.BYPASS PUTHIYA ROAD, ERNAKULAM-682 032,
REPRESENTED BY ITS BRANCH MANAGER.
- 7 THE AXIS BANK,
EDAPPALLY BRANCH, VITHAYATHIL BUILDING, NELSON
MANDELA ROAD, EDAPPALLY, ERNAKULAM-682 024,
REPRESENTED BY ITS BRANCH MANAGER.
BY ADV SHRI. RIJO DOMY

OTHER PRESENT:

ADV. M.JITESH MENON; ADV.LEO GEORGE FOR R4 TO
R6;ADV.PREMCHAND M FOR R7

**THIS OP (CIVIL) HAVING BEEN FINALLY HEARD ON 08.11.2021,
THE COURT ON 29.04.2022 DELIVERED THE FOLLOWING:**

JUDGMENT

Dated this the 29th day of April, 2022

Petitioners are respondents 1 to 4 in I.A.No.2 of 2021 in CMA(Arb) 54 of 2021 on the files of the Commercial Court, Kottayam. The *inter se* dispute among the partners of the first petitioner firm had resulted in the first respondent filing the interlocutory seeking an interim order freezing the accounts of the first petitioner firm. By Ext.P4 order dated 09.04.2021, the Commercial Court allowed the prayer for interim injunction. This original petition was filed when the civil courts were in summer recess and hence the the petitioners are precluded from filing statutory appeal against Ext.P4 as provided under Section 37 of the Arbitration and Conciliation Act.

The situation which compelled the petitioners to approach this Court being no longer in

existence, the original petition is closed without prejudice to the petitioners' right to avail the statutory remedy under Section 37 of the Arbitration Act and the respondents' right to raise all contentions if any such appeal is filed.

Sd/-

V.G.ARUN
JUDGE

Scl/

APPENDIX OF OP(C) 982/2021

PETITIONER EXHIBITS

- EXHIBIT P1 THE TRUE COPY OF THE JUDGMENT IN ARB.A.NO.54 OF 2020 PASSED BY THIS HON'BLE COURT DATED 05.03.2021.
- EXHIBIT P2 THE TRUE COPY OF THE JUDGMENT IN CON.CASE(C) NO.629 OF 2021 PASSED BY THIS HON'BLE COURT DATED 29.03.2021.
- EXHIBIT P3 THE TRUE COPY OF THE AFFIDAVIT AND PETITION FILED BY THE 1ST RESPONDENT IN CMA (ARB) NO.54 OF 2021 ON THE FILED OF THE COMMERCIAL COURT, KOTTAYAM.
- EXHIBIT P4 THE TRUE COPY OF THE INJUNCTION ORDER IN IA NO.2 OF 2021 IN CMA (ARB) NO.54 OF 2021 ISSUED BY THE COMMERCIAL COURT, KOTTAYAM DATED 09.04.2021.
- EXHIBIT P5 THE TRUE COPY OF THE SERVICE CONTRACT, ALLEGEDLY ON BEHALF OF THE 1ST PETITIONER FIRM WITH THE 1ST RESPONDENT DATED 01.10.2017.
- EXHIBIT P6 THE TRUE COPY OF THE RELEVANT PAGES OF THE BANK STATEMENTS OF SAVINGS ACCOUNT NO.0396053000009216 OF SOUTH INDIAN BANK, CHRIST COLLEGE BRANCH, BANGALORE PRODUCED BY THE 1ST RESPONDENT BEFORE THE COMMERCIAL COURT, KOTTAYAM.
- EXHIBIT P7 THE TRUE COPY OF THE LETTER ALLEGEDLY ISSUED BY THE 2ND RESPONDENT TO THE 1ST RESPONDENT DATED 10.08.2018.
- EXHIBIT P8 THE TRUE COPY OF THE LETTER ALLEGEDLY ISSUED BY THE 1ST RESPONDENT TO THE 2ND RESPONDENT DATED 17.09.2018.
- EXHIBIT P9 THE TRUE COPY OF THE LETTER ALLEGEDLY ISSUED BY THE 2ND RESPONDENT TO THE 1ST RESPONDENT DATED 10.10.2018.
- EXHIBIT P10 THE TRUE COPY OF THE LETTER ALLEGEDLY ISSUED BY THE 2ND RESPONDENT TO THE 1ST RESPONDENT DATED 12.07.2020.
- EXHIBIT P11 THE TRUE COPY OF THE NOTICE OF DISSOLUTION OF THE FIRM DATED 07.09.2020 ALONG WITH THE APPLICATION AND RECEIPT.