

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.03.2015

C O R A M

THE HONOURABLE Mr.JUSTICE K.KALYANASUNDARAM

CRP(PD).No.1151 of 2015
and M.P.No.1 of 2015

The Manager
Regligare Finvest Ltd
The Oval, 5th Floor,
No.10 & 12 Venkatnarayana Road
T.Nagar, Chennai-600 017

..Petitioner

-Vs-

D.Dheenadhayaparan

..Respondent

Petition filed under Article 227 of the Constitution of India praying to set aside the order dated 09.01.2015 passed in I.A.No.15434 of 2015 in O.S.No.809 of 2014 by the XVI Assistant Judge, City Civil Court, Chennai.

For petitioner : Mr.R.Venkatavarathan

ORDER

This Revision is directed against the order passed by the XVI Assistant Judge, City Civil Court, Chennai in I.A.No.15434 of 2015 in O.S.No.809 of 2014.

2. The petitioner, who is the sole defendant in O.S.No.809 of 2014 filed an application in I.A.No.15434 of 2014 under Section 8 of the Arbitration and Conciliation Act, 1996 to refer the matter for Arbitration by dismissing the above suit as per Clause 19(B) of the Facility Agreement.

3. The respondent has instituted the suit against the petitioner alleging that he has availed the loan from the petitioner for a sum of Rs.2,00,000/- vide Personal Loan Application No.21660 sanctioned on 24.07.2008. As per the arrangement, the respondent/plaintiff agreed to pay monthly EMI of Rs.7,433/- for the term loan for 36 months.

4. The plaintiff further alleged that he had paid the full amount for the year 2011, while so, the defendant issued notices dated 02.03.2009 and 08.12.2008 for settlement of the loan; the defendant also filed a Private Complaint under Section 138 of the Negotiable Instruments Act and thereafter, the defendant with the help of rowdy elements threatened him, which is illegal, improper and against the fundamental rules adumbrated thereon.

5. It is further alleged that the defendant through Cell No.9962020187 and several unknown calls frequently called the

plaintiff and threatened with dire consequences. With the above allegations, the respondent/plaintiff filed the suit for permanent injunction restraining the defendant and his men and agent from disturbing the plaintiff under the guise of collecting the loan.

6. The defendant filed I.A.No.15434 of 2014 seeking to refer the matter for arbitration contending that as per statement of accounts as on 24.03.2014, the plaintiff is liable to pay Rs.646809.68 and on several occasions, the defendant requested the plaintiff to discharge the outstanding dues of his loan account, but, instead of settling the account, he has filed the suit with untenable contentions. It is further alleged that as per Clause 19(B) of the Personal Loan Agreement, any dispute or controversy or claims arising out of or relating to the transaction out of the agreement shall be settled by arbitration in accordance with the provisions of Arbitration and Conciliation Act, 1996.

7. The application in I.A.No.15434 of 2014 was dismissed by the trial court holding that the Arbitrator cannot grant any relief of this nature and the suit is maintainable. Aggrieved by the said order dated 09.01.2015, present Revision is filed.

8. Mr.R.Venkatavarathan, learned counsel for the petitioner/defendant submitted that as per Section 9 of the Arbitration and Conciliation Act, 1996, the plaintiff/respondent can approach the court only for interim measures, hence the suit is not maintainable in law. The learned counsel further submitted that if the suit is entertained, it will defeat the object of the provisions of the very Act itself.

9. I do not agree with the contentions of the learned counsel for the petitioner. The plaintiff has filed the suit alleging that the defendant with the help of rowdy elements threatened him and also made phone calls through several unknown persons. The plaintiff has sought for the relief of permanent injunction restraining the defendant, his men and agent from disturbing the plaintiff under the guise of collecting the loan amount except under due process of law. Furthermore, the plaintiff has not asked for permanent injunction restraining the defendant from collecting the loan amount as per the agreement.

10. In view of the prayers sought for in the suit, I opine that Section 9 of the Arbitration and Conciliation Act, 1996 has no application to the present case. The trial court has rightly rejected

the application filed by the petitioner/defendant. Hence, I do not find any reasons to interfere with the impugned order.

11. In the result, the Civil Revision Petition is dismissed. No costs. Consequently, connected MP is closed.

24.03.2015

Index:Yes/No
Internet:Yes/No

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To

1.The XVI Assistant Judge, City Civil Court, Chennai.

K.KALYANASUNDARAM, J.

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