

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.11.2015

CORAM

THE HONOURABLE MS.JUSTICE R.MALA

CRP (PD).No.3864 of 2015

and

M.P.No.1 of 2015

Mahindra & Mahindra Limited,
Registered Office at
Gateway Building,
Apollo Bunder,
Mumbai - 400 001.

.. Petitioner

Vs

Rajarajan & Sons,
Cuddalore-Chidambaram Road,
Pachayamkuppam,
Cuddalore O.T.

.. Respondent

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the impugned order dated 16.09.2015 passed in I.A.No.782 of 2015 in O.S.No.2042 of 2015 by the I Additional District Munsif, Puducherry.

For Petitioner : Mr.T.V.Ramanujam, Senior Counsel
Assisted by G.Kalyan Jhabakh
for M/s.Surana and Surana

For Respondent : Mr.S.Sethuraman

ORDER

The Civil Revision Petition is filed to set aside the impugned order dated 16.09.2015 passed in I.A.No.782 of 2015 in O.S.No.2042 of 2015 by the I Additional District Munsif Court, Puducherry.

2.The petitioner who is the defendant/respondent in I.A.No.782 of 2015 is the manufacturer of the Vehicle. The respondent/petitioner/plaintiff is the dealer. The petitioner and the respondent entered into a Dealership agreement on 23.01.2012. As per Clause No.36 of Dealership Agreement, there was an arbitration clause and hence, they moved the Arbitrator in February 2015 and the same is pending before the Arbitrator. But the respondent/petitioner/plaintiff filed a suit in O.S.No.2042 of 2015 on the file of the I Additional District Munsif Court, Puducherry along with I.A.No.782 of 2015 for interim injunction restraining the respondent/defendant from supplying their products to any other dealer either appointed or to be appointed by them in the place of petitioner/plaintiff and directing the respondent/defendant to renew the Dealership Agreement and supply them their products on cash and carry basis to the petitioner/plaintiff. The Trial Court on hearing the respondent/petitioner/plaintiff granted ad-interim injunction till 30.09.2015

and the respondent/petitioner/plaintiff is directed to comply with Order 39 Rule 3 CPC and notice has been ordered. Against which, the present Civil Revision Petition has been preferred by the petitioner/defendant.

3. Heard the learned counsel for the petitioner and the learned counsel for the respondent.

4. The learned Senior Counsel appearing for the petitioner would submit that once the arbitration clause is invoked, the suit itself is barred. But when this Court raised the question as to how the Civil Revision Petition is maintainable only when an ad-interim injunction alone has been granted, the petitioner may very well appear before the Trial Court and file its objection and put forth its defence. The learned Senior Counsel further submitted that there is lack of jurisdiction and hence, he is invoking Article 227 of the Constitution of India. But considering Order 43 of CPC and also the order passed by the Trial Court, only an order of ad-interim injunction has been passed by the Trial Court and no final order has been passed. So, the petitioner may very well file its objection before the Trial Court and put forth its defence and work out its remedy.

5. Furthermore, on perusal of paragraph No. f of the plaint, it is seen that

there was specific mention about the filing of the arbitration proceeding before the Arbitrator. In such circumstances, the question as to whether the suit is maintainable and whether the petitioner is entitled to injunction has to be decided on merits, after hearing both sides and after the filing of objection by the petitioner, who is the respondent in the Interim Application and defendant in the suit.

6. In such circumstances, I am of the view that the present Civil Revision Petition deserves to be dismissed as not maintainable. However, a direction is issued to the petitioner to file its objection within a period of 10 days from the date of receipt of the copy of this order and on receipt of the objection, the Trial Court is directed to dispose of the injunction application within a period of 15 days thereafter, purely on merits.

7. Further, it is seen that already this Court has suspended the interim orders granted by the Trial Court. So, the suspension of the interim order continues till the disposal of the interim application in I.A.No.782 of 2015. The learned counsel for the respondent also fairly conceded for the same.

8.In the result, the Civil Revision Petition is dismissed. No costs.
Consequently, connected Miscellaneous Petition is closed. No costs.

20.11.2015

Index: Yes/No
Internet: Yes/No
cse

To

The I Additional District Munsif, Puducherry.

R.MALA. J.,

cse

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