

In the High Court of Judicature at Madras

Dated : 03.06.2016

Coram :

The Hon'ble Mr.Sanjay Kishan Kaul, Chief Justice

O.P.No.829 of 2015

R.Rajesh Kanna,
Partner,
M/s.Vinayaga Industries,
No.495, 22nd Street,
Korattur,
Chennai-600 080.

.. Petitioner

-vs-

1.P.K.Karthickeyan,
Partner,
M/s.Vinayaga Industries,
Amba Homes,
3, Kollapakkam Main Road,
Kollapakkam,
Chennai-600 128.
2.Karuppusamy,
Partner,
M/s.Vinayaga Industries,
No.3, Jeyaraman Naicker Nagar,
3rd Street, Gerugambakkam,
Chennai-600 122.

.. Respondents

Petition filed under Section 11 (6) of the Arbitration and Conciliation Act, 1996, to appoint an independent arbitrator to hear and decide the disputes between the petitioner and the respondent arising out of the Partnership Deed No.2075 of 2006 dated 19.05.2006 at Chennai.

For Petitioner : Mr.G.B.Saravanabhavan

For Respondents : Mr.K.S.Vamisdhar for R1 & R2

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ORDER

The existence of the arbitration clause is not disputed, which was initially invoked by the petitioner. But there was no agreement on arbitrator. The first respondent has filed the Civil Suit (O.S.No.336 of 2015 on the file of the District Munsif Court, Ambattur) qua the same subject matter. The petitioner instead of seeking stay of the said proceedings, filed the written statement. It is, thus, the plea of the learned counsel for respondents 1 and 2 that the petitioner having filed the written statement in the said proceedings, cannot now seek resolution of disputes through arbitration.

2. The copy of the written statement filed by the petitioner has been produced. On perusal of the same, I find that complete merits of the case have been dealt with, though at the end of the written statement, it is stated that the suit is barred as there is an arbitration clause. Thus, instead of moving an application under Section 8 of the Arbitration and Conciliation Act, 1996, for the reasons best known to the petitioner, he has filed the

written statement on merits. In view of the clear wordings of the provision under Section 8 of the Arbitration and Conciliation Act, 1996, now there is no question of reference for arbitration.

3. The Original Petition is dismissed. No costs.

(S.K.K., CJ.)
03.06.2016

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The Hon'ble Chief Justice

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