

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.03.2016

CORAM

THE HONOURABLE Dr.JUSTICE S.VIMALA

CRP (NPD) No.722 of 2001
and CMP.No.3906 of 2001

1.M/s.Pandiyan Graphites India Ltd.,
(B-6846), Flat No.B-925,
Venkatanarayana Road,
T.Nagar, Chennai – 600 017.

2.Usman Fayaz
Flat No.1, Mellur Road,
Uthandi Post,
Othakkadai, Madurai.

3.B.D.Ramesh Babu
No.151, Eldams Road,
Chennai – 600 018.

.. Petitioners

Vs

1.The Repatriates Co-operative Finance and
Development Bank Ltd.,
No.33,NOrth Usman Road,
T.Nagar, Chennai – 17.

2.R.Jayarama Naidu
S/o.Ramasamy Naidu
No.2/32, Oomaithurai Street,
Perungudi, Chennai – 600 091.

3.The Co-operative Sub-Registrar
(Arbitration & Execution)
The Repatriate Co-operative Finance and
Development Bank Ltd.,
Finance and Development Bank Ltd.,
No.33, North Usman Road,
T.Nagar, Chennai – 17.

.. Respondents

Prayer:- Civil Revision Petition filed under Article 227 of the Constitution of India praying to call for the records relating to A.R.C.No.245 of 2000-2001 on the file of the first respondent, the Co-operative Sub-Registrar (Arbitration & Execution), The Repatriates Co-operative Finance and Development Bank Ltd., No.33, North Usman Road, T.Nagar, Chennai-600 017 and to set aside the order dated 19.02.2001 made therein.

For Petitioners	:Mr.Achuthanandan
For Respondents	:Mr.L.M.Praghasam

ORDER

This Revision Petition has been filed by the defendants challenging the closure of the reopening petition filed in ARC.No.245/2000-2001 on the file of the first respondent, the Co-operative Sub-Registrar (Arbitration & Execution), The Repatriates Co-operative Finance and Development Bank Ltd., Chennai.

2. The first respondent herein as plaintiff filed ARC.No.245/2000-2001 under Section 74 & 76 of Multi State Co-operative Societies Act. The plaintiff sought for a direction, to direct the defendants to pay a sum of Rs.60,08,988/- together with interest at 21% from 01.07.2000 and costs. The matter was pending before the Arbitrator.

3. Assailing the order passed by the Arbitrator as mechanical and laconic and devoid of reasoning, this revision petition has been filed.

4. The learned counsel appearing for the revision petitioners submitted that when the plaintiff/1st respondent has not adduced any evidence in support of his claim, the order directing the defendants/revision petitioners to produce evidence itself is not correct and that unless the plaintiff adduces evidence there is no liability to commence the evidence.

4.1. This contention cannot be accepted as it is open to the plaintiff to adduce evidence (oral or documentary) or to confine the scope merely to arguments alone.

5. However, it is submitted that the Arbitrator did not give sufficient opportunity to the defendants to produce evidence.

5.1. Based on this submission, this Court directed the defendants to produce the list of witnesses. It is submitted that the defendants 3 and 4 will be the witnesses on the side of the defendants and that they are ready to get on with the examination of them.

6. At this point of time, the learned counsel for the plaintiff would submit that the plaintiff is also interested in letting in evidence. Therefore, the examination of witnesses has to commence afresh.

6.1. Without the oral and documentary evidence on both sides, there will be no material left for the Arbitrator to pass the award. Considering the stated circumstance and also representation made on both sides, the order dated 19.02.2001 is hereby set aside. The Arbitrator is directed to give sufficient opportunity to the petitioners as well as to the respondents to produce the oral and documentary evidence and to dispose of the case on merits.

7. The memo filed by the revision petitioners is hereby recorded and it is directed to be transmitted along with the records to the Arbitrator.

8. Accordingly, the revision petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

07.03.2016

ds

To:
The Co-operative Sub-Registrar
(Arbitration & Execution)
The Repatriates Co-operative Finance
and Development Bank Ltd.,
No.33, North Usman Road,
T.Nagar, Chennai-600 017

S.VIMALA,J.

ds

CRP (NPD) No.722 of 2001
and
and CMP.No.3906 of 2001

07.03.2016