

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09-03-2018

CORAM :

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

C.M.A.No.1991 of 2016

and

C.M.P.No.14367 of 2016 and 4284 of 2018

- 1.M/s.Saisurya Realtors and Developers,
A partnership firm having office at
No.K-49, Anna Nagar East, Chennai 600 102
and also having office at No.14, Old No.18,
Nadamuni Street, Shenoy Nagar, Chennai 600 030.
- 2.D.Suresh Reddy,
Managing Partner of Saisurya Realtors and Developers,
S/o.D.Muniragahav Reddy,
No.97/41, 1B, Sankara Flats,
4th Main Road, Gandhi Nagar,
Chennai 600 020.
- 3.M.Srinivas Varma,
Partner of Saisurya Realtors and Developers,
S/o.M.V.Bhimraju,
7-1-261/330, Flat No.503, F
House No.418/3RT, Crown Residency,
Near Gowthami Thamam,
S.R.Nagar, Hyderabad - 35. ... Appellants

Vs

1.M/s.Hiranandani Realtors Private Limited,
Rep. by its Authorised Signatory Shankar Velmurugan UM
Olympia, Central Arvenue, Hiranandani Business Park,
Powai, Mumbai 400 076, and having its regional office at
No.5/63, Old Mahabalipuram Road, Egattur Village,
Thalambur P.O., Chennai 600 130, Tamil Nadu.

2.M/s.Lakepoint Builders Pvt. Ltd.,
By its authorised signatory Olympia,
Central Avenue,
Hiranandani Business Park,
Powai, Mumbai 400 076.

... Respondents

PRAYER : Civil Miscellaneous Appeal filed to set aside the
order dated 23.06.2016 made in the Miscellaneous Petition of
2014 in Arbitration Case of 2014 between the appellants and the

respondents on the file of Mrs.Justice Prabha Sridevan, Arbitrator.

For Appellants : Mr.G.Ashokapathy
for M/s.Pass Associates

For Respondents : Mr.M.S.Murali (for R1 and R2)

J U D G M E N T

A memorandum of understanding was entered into between the appellant and the 2nd respondent on 15.06.2007 to procure 200 acres of land in Thaiyur Village by the appellant in favour of the 2nd respondent. About 27.6625 acres of land was conveyed in favour of the 2nd respondent in the year 2007 itself. Thereafter, an agreement between the appellant and the 1st respondent was entered on 30.06.2008, by which, applicants rights and liabilities in the original memorandum of understanding dated 15.06.2007 was modified bringing down the total number of acres to 110 and revising the rate from Rs.2.52 crores per acre to not exceeding Rs.2.90 crores per acre. Even though, the 2nd respondent was not a party to the said supplemental agreement dated 30.06.2008, the 1st respondent took up the obligations of the 2nd respondent and claim the rights of the 2nd respondent.

2.Subsequently, dispute arose between the parties, which constrained the 1st respondent to approach this Court, seeking appointment of an Arbitrator to resolve the dispute by filing OP.No.849 of 2010, which was ordered on 07.08.2014, appointing the learned Arbitrator.

3.Before the Arbitrator in the claim petition, the 1st respondent as claimant made the 2nd respondent herein as 4th respondent in the Arbitration case. To strike out the 4th respondent therein and the 2nd respondent herein as a party from the proceedings, an application was taken out before the learned Arbitrator by the appellant herein and respondents 1 to 3 therein. The said petition was dismissed by the learned Arbitrator, against which only the present appeal has been filed.

4.Heard Mr.G.Ashokapathy, for M/s.Pass Associates, learned counsel appearing for the appellant and Mr.M.S.Murali, learned counsel appearing for the respondents.

5.It is evident from the records that the original agreement dated 15.06.2007 is between the appellant and the 2nd respondent and thereafter, another agreement dated 30.06.2008 was entered into between the 1st respondent and the appellant. The 1st respondent contended that the 2nd respondent is a sister concern

of the 1st respondent. Since all the rights, liabilities and obligations arising out of the agreements have been taken over by the 1st respondent, if at all the 2nd respondent can remain in the Arbitration proceedings only as a formal party and no independent right is available to the 2nd respondent either to make claim or joint claim against the appellant. Consequently, the 2nd respondent has got no right to adduce any evidence independently. However, it is open to the 1st respondent to examine the 2nd respondent as a witness on their side to adduce both oral and documentary evidence. In this regard, an affidavit also has been filed by the 2nd respondent.

6. With the above observation, this Appeal is disposed of. Interim order already granted is vacated, in view of the disposal of the appeal. Consequently connected miscellaneous petitions are closed. No costs.

s/d-
Assistant Registrar(CS-III)

True Copy

Sub-Assistant Registrar

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To

1. Mrs. Justice Praba Sridevan
The Arbitrator
Chennai.

+1 Cc to M/s. R & P Partners, sr 18240.

+1 CC to Pass Associates sr 18393.

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C.M.A.No.1991 of 2016

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