

IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED: 19.12.2018

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

C.R.P. (PD) No. 545 of 2015

and

M.P. No. 1 of 2015

M/s.Hinduja Leyland Finance Limited,
Rep. By its Manager,
167-169, 3rd Floor,
Anna Salai, Saidapet,
Chennai - 600 015.

...Petitioner

Vs

K.Lakshmi Narayani

...Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the order and decretal order passed by the learned XVIII Assistant City Civil Judge, Chennai dated 16.12.2014 made in I.A.No.11207 of 2014 in O.S.No.733 of 2014.

For Petitioner : Mr.K.B.Vivekanandhan

For Respondent : No Appearance

ORDER

Heard Mr.K.B.Vivekanandhan, learned counsel for the petitioner. Though notice has been served on the respondent and the name printed in the cause list, none appeared on her behalf.

2. The rejection of the petitioner's application under Section 8 of the Arbitration and Conciliation Act is under challenge in the present revision.

3. According to the learned counsel for the petitioner, the suit itself is barred in view of Section 8 of the Arbitration and Conciliation Act and as such, he submitted that the trial Court was not justified in rejecting the application seeking to refer the matter for arbitration.

4. The trial Court had rejected the petitioner's application on the ground that the cause of action in the plaint is not a dispute covered under arbitration agreement and since the suit has not been filed for any dispute on the loan amount, it may not amount to dispute arising under the arbitration agreement. I am unable to agree with the reasoning given by the Court below.

5. According to the learned counsel for the petitioner, the Clause 14 and 15.3 of the loan agreement entitles the petitioner herein to recover the possession of the vehicle. Clause 23 of the said agreement is the Arbitration Clause.

6. The respondent herein / plaintiff has filed a suit apprehending that the petitioner herein may seize the vehicle. When there is a default clause in the loan agreement that the petitioner herein is entitled to seize the vehicle in the event of any default of the monthly installments, it can only be said that the cause of action pleaded in the plaint arises only out of dispute arising out of the Arbitration agreement. The plaintiff has clearly alleged that the petitioner herein is attempting to seize the vehicle. Since such a dispute is covered under the arbitration agreement, the suit itself may not maintainable.

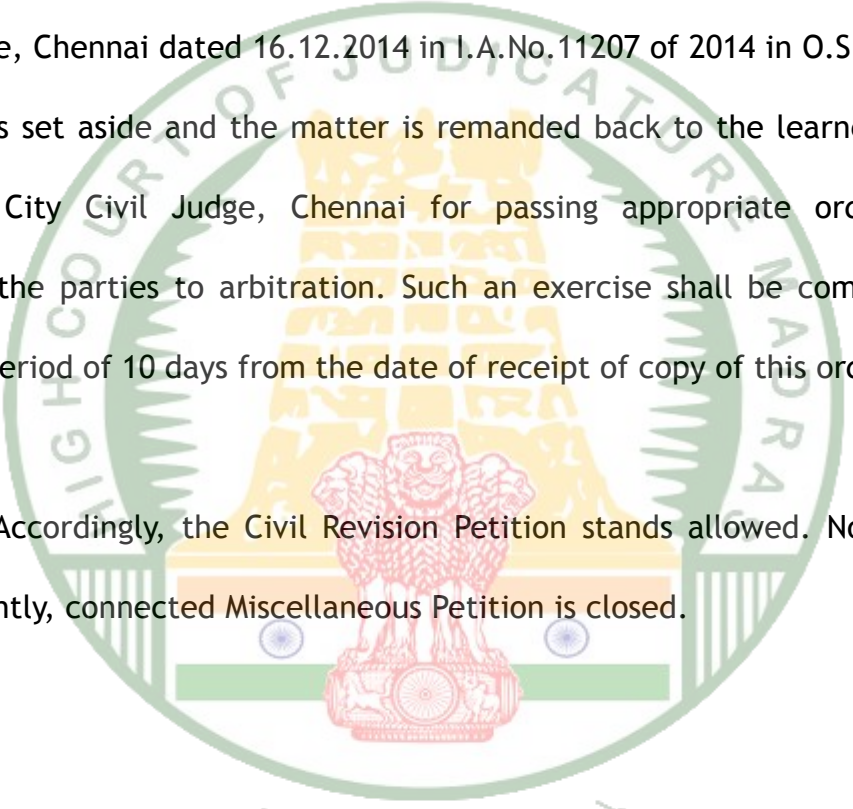
7. Section 8 of the Arbitration and Conciliation Act, 1996, empowers the Civil Court to refer the parties to arbitration, when there is an arbitration agreement. As such, the reasoning of the Court below in rejecting the petitioner's application, may not proper.

M.S.RAMESH.,J

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8. In the result, the order passed by the learned XVIII Assistant City Civil Judge, Chennai dated 16.12.2014 in I.A.No.11207 of 2014 in O.S.No.733 of 2014, is set aside and the matter is remanded back to the learned XVIII Assistant City Civil Judge, Chennai for passing appropriate orders by referring the parties to arbitration. Such an exercise shall be completed, within a period of 10 days from the date of receipt of copy of this order.

9. Accordingly, the Civil Revision Petition stands allowed. No costs. Consequently, connected Miscellaneous Petition is closed.



सत्यमेव जयते

19.12.2018

Index:Yes/No
Speaking order: Yes/No
hvk

To
The XVIII Assistant City Civil Court,
Chennai.

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