

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 5.12.2018

CORAM:

THE HONOURABLE MR. JUSTICE M.M. SUNDRESH
AND
THE HONOURABLE MR. JUSTICE KRISHNAN RAMASAMY

O.S.A. No. 360 of 2017
and
C.M.P. No. 22726 of 2017

M/s. Shriram City Union Finance Limited,
Having its Registered Office at
No. 123, Angappa Naicken Street,
Chennai, Rep. By its Authorised Signatory
Mr. P. NawinAppellant

Vs.

M/s. STL Extrusion Private Limited,
Rep. By its Director,
Mr. Jinga Sanghvi
No.15-16, Old IDA Building, 3rd Floor,
Jawahar marg, Indore,
Madhya Pradesh - 425 007Respondent

Prayer: Appeal under Section 37 of the Arbitration and
Conciliation Act against the order dated 25/10/2017 made in
Application No.769 of 2017.

For Appellant : Mr. R. Umashankar

For Respondent : M/s. S. Jyothsana

J U D G M E N T

(Delivered by M.M.SUNDRESH, J.)

This appeal is preferred against the rejection of the application filed under Section 9 of the Arbitration and Conciliation Act, 1996. The learned Single Judge dismissed the application, inter alia, holding that there is no arbitration clause per se. Finding has been given with respect to the situs of the Arbitration. On merit it was held that the relief sought for cannot be granted. Challenging the same, the appeal is preferred.

2. Admittedly, the Arbitral Tribunal has already been constituted. Therefore, there is no need to go into the issues raised. Inasmuch as the Section 9 application has been filed seeking to direct the respondent to furnish security and in default, to order sale of the property, we are of the view that the learned Single Judge ought not to have gone into the legal issues, especially when by the subsequent development, Arbitral Tribunal has already been constituted.

3. Learned counsel for the appellant also submits that he would like to withdraw Section 9 application.

4. Be that as it may, in view of the observations made, we are inclined to dismiss this appeal with the observation that all the findings of the learned Single Judge will not have any bearing on the Tribunal to decide the issues both on facts and on law afresh.

5. In view of the above said observation, the appeal stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

ssm

To

The Sub Assistant Registrar
Original Side
High Court, Madras.

+1 cc to M/s.R.Parthasarathy, Advocate, SR No.83760

+1 cc to M/s.Sri & Shankar Associates, SR No.84515

gp(co)
ssm(27/12/2018)

O.S.A. No. 360 of 2017

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