

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.04.2019

CORAM

THE HON'BLE MR.JUSTICE M.GOVINDARAJ

CMA NO.2678 OF 2018

DEWY Terraces (Phase 1) Flat
Owners Association
C-212, Phase - 1
Dewy Terraces, Crescent Parc,
Thiruporur, Kanchipuram - 603 110. ... Appellant

VS.

SARE Shelters Project Pvt. Ltd.,
(Formerly known as SARE Jubilee
Shelters Pvt. Ltd.)
C-42&C-43, CIPET Road,
Thiru-vi-ka Industrial Estate,
Guindy, Chennai - 600 032.

Head office at:
Duet House
Plot No.46, Udyog Vihar Phase IV,
Gurgaon - 122 015. Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 37 of the Arbitration and Conciliation Act, 1996, against the order dated 08.09.2018 passed by the Arbitral Tribunal in I.A.No.5 of 2018 in Arb.No.1 of 2017 passed by the learned Sole Arbitrator.

For Appellant : Ms.Rohini Ravikumar

For Respondent : Mr.R.Arumugam

J U D G M E N T

The present Civil Miscellaneous Appeal has been preferred against the order dated 08.09.2019 passed in I.A.No.5 of 2018 in Arb.No.1 of 2017 by the Arbitral Tribunal.

2. The appellant/Association filed a petition for a direction before the Arbitrator directing the respondent to deposit the entire corpus fund of Rs.76,00,000/- and advance six months maintenance charges to the appellant in an Escrow account. The Arbitrator had considered the facts and dismissed the petition filed by the appellant.

3. From the materials available before this Court, it could be seen that the appellant/Association consists of only 50 members at the time of raising dispute, whereas a direction is sought against the respondent, to deposit the entire corpus fund of all 304 residents of Phase-I of Dewy Terraces. The Arbitrator has rightly considered and held that such a direction cannot be given to deposit the money belonging to the other Flat owners who are not members of this Association and it is beyond the scope of the arbitration proceedings. I do not find any discrepancy in the order of the Arbitrator.

4. Learned counsel appearing for the respondent would submit that they are ready to deposit the corpus fund and advance six months maintenance charges before the Arbitrator after deducting the arrears due from the Members of the appellant / Association.

5. Recording the undertaking given by the learned counsel for the respondent, a direction is given to the respondent to deposit the corpus fund advance six months maintenance charges before the Arbitrator within a period of 15 days from the date of receipt of a copy of this order. The arrears of maintenance and the amount due to the flat owners can be agitated before the Arbitrator.

6. The Civil Miscellaneous Appeal is disposed of with the above directions. No costs.

TK

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1.The Arbitral Tribunal,
Chennai.

2.SARE Shelters Project Pvt. Ltd.,
(Formerly known as SARE Jubilee
Shelters Pvt. Ltd.)
C-42&C-43, CIPET Road,
Thiru-vi-ka Industrial Estate,
Guindy, Chennai - 600 032.

+lcc to Mr.R.Arumugam, Advocate, SR.No.40885/19

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Kak(27/06/2019)



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