



C.R.P(PD)No.3468 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 17.11.2021

Coram

The Honourable Mr.Justice J.SATHYA NARAYANA PRASAD

**C.R.P(PD)No.3468 of 2016
and C.M.P.No.17666 of 2016**

P.Ganesan

...Petitioner

Versus

1.N.Saravanan
2.M/s.Lanco Industries Limited,
Racha Gunneri,
Srikalahasthi Mandal,
Chitoor District,
State of Andhra Pradesh.

...Respondents

This Civil Revision Petition is filed under Article 227 of the Constitution of India praying to set aside the fair and decreetal order dated 13.06.2016 made in I.A.No.13631 of 2014 in O.S.No.1998 of 2014 on the file of the XVII Assistant Judge, City Civil Court, Chennai.

For Petitioner : Mr.Ravichandran Sundaresan

For Respondent – 1 : Mr.P.Balamurugan

Respondent – 2 : No Appearance



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ORDER

The present Civil Revision Petition has been filed by the petitioner/first defendant challenging the order passed by the learned XVII Assistant Judge, City Civil Court, Chennai in I.A.No.13631 of 2014 in O.S.No.1998 of 2014 dated 13.06.2016, in and by which, the learned Judge has dismissed the Interlocutory Application filed by the petitioner/first defendant under Order VII Rule 11 of C.P.C r/w. Section 8 of Arbitration and Conciliation Act praying to reject the plaint in O.S.No.1998 of 2014.

2. The learned counsel for the petitioner/first defendant submitted that the petitioner/first defendant had entered into a partnership with the first respondent/plaintiff in the name and style of 'Srimurugan Traders', vide Partnership Deed dated 21.08.2008. The Clause 16 of the said Partnership Deed reads as follows:

“16. In the event of disputes between the partners, with regard to anything relating to the partnership business, the matter shall be referred to arbitrators duly appointed in accordance with the Arbitration Act in force at that time.”



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2.1. The aforesaid arbitration clause clearly indicates that if any dispute arises between the parties, they should approach the Arbitration Tribunal. But, without doing so, the first respondent/plaintiff had filed a suit in O.S.No.1998 of 2014 before the City Civil Court, Chennai for the following reliefs:

(a) For declaration that the partnership firm 'Sri Murugan Traders' and 'Sree Murugan Traders' are one and the same and the first defendant have no exclusive right in the firm 'Sree Murugan Traders'.

(b) For dissolution of partnership and for settlement of accounts and distribution of assets between the plaintiff and the first defendant in the ration of 50:50 with regard to 'Sri Murugan Traders' and 'Sree Murugan Traders'.

(c) For permanent injunction restraining the defendant or his men or agents or anyone claiming under him from running the said business till the settlement of accounts.

(d) For the cost of the suit.



2.2. Aggrieved over the act of the first respondent/plaintiff, the petitioner/first defendant had filed an Interlocutory Application in I.A.No.13631 of 2014 praying to reject the plaint, however, the same was dismissed by the trial Court vide order dated 13.06.2016. Hence, left with no other alternative, the petitioner/first defendant has filed the present Civil Revision Petition before this Court.

2.3. The learned counsel further submitted that as per Clause 16 of the Partnership Deed dated 21.08.2008, the first respondent/plaintiff ought to have approached the Arbitration Tribunal to settle the dispute, but, instead of which, he had filed a suit O.S.No.1998 of 2014 before the trial Court, which is an absolute violation of the aforesaid Arbitration Clause. Therefore, he prayed that the present Civil Revision Petition may be allowed.

3. The learned counsel appearing for the first respondent submitted that the issue involved in the suit O.S.No.1998 of 2014 has to be dealt only by the trial Court since many such issues are to be settled by the trial Court.



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4. Considering the facts and circumstances of the case and also, taking note of the prevailing Arbitration Clause 16 of the Partnership Deed dated 21.08.2008, this Court is inclined to allow this revision petition.

5. Accordingly, the Civil Revision Petition is allowed and the order passed by the learned XVII Assistant Judge, City Civil Court, Chennai in I.A.No.13631 of 2014 in O.S.No.1998 of 2014 is hereby set aside. No costs. Consequently, connected Miscellaneous Petition is closed.

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Index : Yes/No



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J.SATHYA NARAYANA PRASAD, J.

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To

The XVII Assistant Judge,
City Civil Court,
Chennai.

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17.11.2021