

O.A.No.552 of 2021 & Application Nos.221 and 222 of 2021

V.PARTHIBAN,J.

This application is filed under Section 9 of the Arbitration and Conciliation Act,1996.

2. The applicant herein has entered into 102 loan agreements with the first respondent herein. Some of the loan agreements were settled and the relevant NOCs were also provided to the applicant by the 1st respondent. There are several accounts which are still outstanding.

3. A dispute therefore arose between the 1st respondent herein and the applicant and the matter has been referred before the Arbitration in terms of provisions of the Arbitration and Conciliation Act, 1996. Pending the arbitration proceedings, the present application has been taken out by the applicant herein.

4. This Court, while entertaining the application earlier, passed an order of status quo on 14.09.2021 and continued the same till 26.10.2021.

5. On behalf of the 1st respondent, a detailed counter affidavit has been filed narrating the entire sequence of facts in regard to the several loan transactions as between the applicant and the first respondent.

6. According to the 1st respondent, there has been extraordinary delay

in payment of EMI towards several loan transactions and the dispute relating thereto is before the Arbitral Tribunal and once, the matter is seized by the Arbitral Tribunal in terms of Arbitration and Conciliation (Amendment) Act, 2015, the application under Section 9 is not maintainable. Therefore, the 1st respondent would submit that this application is not maintainable and even on merits, the application herein is not entitled to be shown any indulgence by this Court. In any case, it is always open to the applicant herein to approach the Arbitral Tribunal by invoking Section 17 of the Act for any interim protection.

7. On behalf of the applicant, it has been contended that no proper statement of accounts has been maintained by the 1st respondent and also there is no transparency of accountability in respect of the loan transactions entered into between the applicant and the 1st respondent.

8. Although, the learned counsel for the applicant has passionately pleaded for indulgence of this Court not to take any coercive action, this Court is not inclined to entertain this application any further.

9. Once the matter is before the Arbitral Tribunal, as rightly contended on behalf of the 1st respondent, the application under section 9 of the Act before this Court need not be entertained. It is not that the applicant

herein is remediless. As rightly contended by the learned counsel for the 1st respondent, it is always open to the applicant to move the Arbitrator seeking any interim protection.

10. In the above circumstances, this Court is of the view that the present application should not be kept pending on the file of this Court. The application is liable to be dismissed both on the ground of maintainability as well as on merits confined to section 9 application alone. However, the dismissal of this application ought not to have any influence on consideration by the Arbitrator, if any application has been moved by the applicant under Section 17 of the Act.

11. Accordingly, the Original Application is dismissed. Consequently, Application Nos.221 & 222 of 2021 are closed. No costs.

10.11.2021

Speaking/Non-speaking order

Index: Yes/No.

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vsi



Pre-delivery order in
O.A.No.552 of 2021 &
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