IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.04.2021

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THE HON'BLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

CRP.NPD.No.3579 of 2017

K.Vijayaraghavan
S/o.K.A.Velayutham ... Petitioner

Vs.

Cholamandalam Investments & Finance Co. Ltd.,
Dare House, No.2, N.S.C.Bose Road,
Parrys Corner, Chennai-600 001. ... Respondent

PRAYER: The Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the Fair and Decreetal order dated 14.02.2017 passed in I.A.No.131 of 2016 in O.S. No.2945 of 2016 by the Hon'ble XVIII Additional City Civil Judge, Chennai.

For Petitioner : No appearance

For Respondent : M/s.Harini for
M/s.M.B.Gopalan Associates

O R D E R

This Civil Revision Petition is directed as against the fair and decretal order passed in I.A.No.131 of 2016 in O.S. No.2945 of 2016 dated 14.02.2017 on the file of the XVIII Additional City Civil Judge, Chennai thereby, allowing the petition filed by the respondent to pursue the suit claim by way of arbitration in accordance with the loan agreement.

2. The petitioner is the plaintiff and the respondent is the defendant. The petitioner filed a suit for recovery of money to the tune of Rs.11,72,265.24 together with future interest at the rate of 12% p.a. According to the petitioner, the petitioner availed a loan from the respondent to the tune of Rs.3 crores. The loan amount was repayable with interest in 120 equated monthly installments. Due to the exorbitant interest, the petitioner pre-closed the loan amount and availed the loan in a nationalised bank. At the time of pre-closure, the respondent insisted payment of an additional sum of Rs.11,03,54.24 towards pre-closure charges. The petitioner initially refused to pay the pre-closure charges citing the Reserve Bank of India guidelines. Therefore, the petitioner is entitled for the amount which is collected as pre-closure charges. As such, the petitioner filed a suit. Pending the suit, the respondent filed a petition under Section 8 of the Arbitration and Conciliation Act, 1996 seeking to dismiss the suit permitting the petitioner to pursue the suit claim by way of arbitration.

3. **Clause 26 of the loan agreement reads as under:**

> *"Clause 26. ARBITRATION:*
>
> *All disputes, differences and/or claims arising out of this Agreement whether during its subsistence or thereafter shall be settled by Arbitration in accordance with the provisions of The Arbitration and Conciliation Act, 1996 or any statutory amendments thereof and shall be referred to the Sole Arbitration of an Arbitrator nominated by the Company. The award given by such Arbitrator shall be final and binding on all parties to this Agreement. In the event of an appointed arbitrator dying or being unable or unwilling to act as arbitrator for any reason, the Company, on such death of the arbitrator or his inability or unwillingness to act as arbitrator, shall appoint another person."*

4. Accordingly, any dispute arising out of loan agreement shall be settled by arbitration in accordance with the provisions of the Arbitration and Conciliation Act, 1996. Accordingly, the court below rightly allowed the petition and directed the petitioner to work out his remedy before the

G.K.ILANTHIRAIYAN,J.

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arbitrator in accordance with Clause 26 of the loan agreement entered into between the petitioner and the respondent.

5. Therefore, this Court finds no irregularity or infirmity in the order passed by the Court below. Accordingly, this Civil Revision Petition stands dismissed. No costs.

01.04.2021

Speaking/Non-speaking order
Index : Yes/No
Internet : Yes/No
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To

The XVIII Additional City Civil Judge,

Chennai.

CRP.NPD.No.3579 of 2017