



A.No.1349 of 2022 in C.S.No.206 of 2018

A.No.1349 of 2022 in C.S.No.206 of 2018

P.VELMURUGAN,J.

The application has been filed by the defendants 2, 3, 5 and 6 praying to refer the suit in C.S.No.206 of 2018 as per Section 8 of the Arbitration & Conciliation Act, 1996.

2 The 1st respondent is the plaintiff, the respondents 2 to 5 are defendants 1, 4, 7 and 8 respectively.

3 Though the learned counsel for the first respondent/plaintiff submitted that in the suit there is other reliefs against the other defendant also in which arbitration cannot be invoked as the party to the suit is not a party to the arbitration agreement and the arbitration cannot be conducted against the person, who is not a party to the agreement. Therefore the application is not maintainable.

4 But the learned counsel for the applicants/defendants 2, 3, 5 and 6 would submit that the first respondent sought for the relief only against the defendants 1 and 7 who are parties to the Joint Development Agreement and not



A.No.1349 of 2022 in C.S.No.206 of 2018

against D8 and only injunction is sought for against D8 and that the injunction is nothing to do with relief sought for in this application. Therefore, the contention of the first respondent/plaintiff is not acceptable since the relief sought for is only against the defendants 1 to 7 who are parties to the Joint Venture Agreement and they bind by the agreement and the Arbitration clause. Even in case of any dispute in the subject matter of the agreement, the parties have to appoint an Arbitrator since there is an arbitration clause in the Joint Development Agreement dated 21.07.2016 in Clause 51 wherein it is stated that “Any dispute between the parties shall be referred to a sole arbitrator to be appointed by the parties by mutual consent. The proceedings shall be conducted in English language and the venue of arbitration shall be at Chennai. The parties agree to fast tract arbitration and shall be disposed off within 90 days from the date of reference. The arbitrator shall be entitled to pass interim award.”

5 Therefore, in view of the above, it is clear that the party is entitled to invoke Section 8 of the Arbitration and Conciliation Act and the defendants 2, 3, 5 and 6 have rightly invoked Section 8 of the Arbitration Act. Therefore, if any party files a suit, the defendants therein, before submitting the first statement, can invoke



A.No.1349 of 2022 in C.S.No.206 of 2018

Section 8 of the clause. Accordingly, in this case, the defendants 2, 3 , 5 and 6 have rightly invoked the Section 8 of the clause before filing the 1st statement.

6 The applicants have made out the grounds to invoke Section 8 of the Arbitration Act. Therefore, the application is allowed and the suit is closed. The parties are directed to appoint an arbitrator and sort out the disputes with the Arbitrator appointed by the parties.

29.03.2022

ksa-2



WEB COPY



A.No.1349 of 2022 in C.S.No.206 of 2018

P.VELMURUGAN,J.

ksa-2

A.No.1349 of 2022 in C.S.No.206 of 2018

29.03.2022