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C.R.P.(PD)No.1327 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.10.2022

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HONOURABLE MR.JUSTICE N.SATHISH KUMAR

C.R.P.(PD)No.1327 of 2022
and C.M.P.Nos.6996 and 6999 of 2022

1.Dr.S.Ajay Venkatesh
2.Dr.Lalitha Ajay Venkatesh

... Petitioners

Vs.

True Sai Motors (P) Ltd.,
Represented by its Managing Director
S.E.Palanivel
Office at 390/73A, Cherry road
Hasthampatty, Salem 636 007

... Respondents

Prayer: The Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the order dated 19.01.2022 passed in I.A.No.1 of 2022 in Arbitration Reference Number 572 of 2020 and also set aside the entire proceedings of the Arbitral Tribunal numbered as Arbitration Reference Number 572 of 2020 between Dr.Ajay Venkatesh, Dr.Lalitha Ajay Venkatesh and M/s.True Sai Motors Pvt. Ltd. on the file of sole Arbitrator.

For Petitioners : Mr.Jayesh B Dolia
for Aiyar and Dolia

For Respondent : Mr.M.Sriram



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ORDER

The Civil Revision Petition is filed under Article 227 of Constitution of India, challenging the order of the Arbitrator, rejecting the claim of the petitioner to decide the preliminary issue. Vide order dated 08.07.2022, this Court has appointed the learned Arbitrator to adjudicate the claim and dispute between the parties. Thereafter, another application in A.No.3806 of 2021 has been filed to recall the order dated 26.10.2021 and this Court rejected the contention of the applicant and relegated the parties to the Arbitrator to decide the question of existence of the Company. Thereafter, the application appears to have been filed before the Arbitrator for trying the preliminary issue. The learned Arbitrator rejected the same and as against which, the present revision is preferred.

2.Heard Mr.Jayesh B Dolia, the learned for the petitioners and Mr.M.Sriram, the learned counsel for the respondent,

3.The dispute is mainly pertaining to the Agreement entered into between the parties and certain documents are said to have been executed by the petitioners. It is also now submitted that the Company is not in existence at the time of Agreement. As the entire issue is already relegated to the Arbitrator and



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the Arbitrator has also decided to take up the issue along with the main issue, this Court is of the view that the order does not suffer any infirmity. The main issue appears to be with regard to the payment of certain amount based on the contract entered into between the parties. Whether the company was in existence or not is also a matter for evidence which requires proper evidence. Further, it is the claim of the petitioner that they have received only Rs.10 lakhs, whereas, the respondent contended that they have paid Rs.40 lakhs. As there are disputed facts, the evidence to be addressed before the Arbitrator.

4.In such view of the matter, merely because the Arbitrator rejected the contention of the petitioner to try the particular aspect as a preliminary issue, such order cannot be assailed in a revision, as the learned Arbitrator has not even gone into the case on merits, this Court finds no merit in the Revision. The learned Arbitrator shall decide the issue based on the claim petition and counter by framing proper issues expeditiously within a period of six (6) months.

N.SATHISH KUMAR,J.,



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5.With the above, this Civil Revision Petition stands dismissed.

Consequently, the connected miscellaneous petitions are closed. No costs.

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Internet : Yes / No

Index : Yes / No

Speaking / Non-speaking order

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