



O.S.A.Nos. 81 & 82 of 2022

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.06.2022

CORAM :

THE HON'BLE MR. JUSTICE M. DURAISWAMY

AND

THE HON'BLE MR. JUSTICE SUNDER MOHAN,

O.S.A.(CAD) Nos. 81 & 82 of 2022

and C.M.P. No.9578 of 2022

Yentop Manickam Edible Oils Private Limited,
123, Katchery Road,
Virudhunagar – 626 001.
Tamil Nadu, India.

.. Appellant in OSA.(CAD) No.81 of 2022

Manickavel Edible Oils Private Limited,
123A, Katchery Road,
Virudhunagar – 626 001.
Tamil Nadu, India.

.. Appellant in OSA.(CAD)No.82 of 2022

v.

Olam International Limited,
Rep. By its Authorised Representative
Mr. Anil Shamrao Jadhav
7, Straits View, Marina One East Tower,
20-01, Singapore – 018 936.

... Respondent in both OSAs



O.S.A.Nos. 81 & 82 of 2022

O.S.A. CAD) No.81 of 2022 : Original Side Appeal filed under Order XXXVI Rule 9 of the Original Side Rules and under section 13 (1) of the Commercial Courts Act, to allow the present appeal and set aside the order dated 09.12.2021 made in E.P.Sr.No.92265 of 2021 and consequently declare that E.P.No.69 of 2021 is not maintainable.

O.S.A. CAD) No.82 of 2022 : Original Side Appeal filed under Order XXXVI Rule 9 of the Original Side Rules and under section 13 (1) of the Commercial Courts Act, to allow the present appeal and set aside the order dated 09.12.2021 made in E.P.Sr.No.92266 of 2021 and consequently declare that E.P.No.68 of 2021 is not maintainable.

For Appellants : Mr. Suhrith Parthasarathy
(in both Appeals)

For Respondent :
(in both Appeals) for M/s. Deepika Murali

COMMON JUDGMENT

(Judgment was delivered by M. DURAISWAMY, J.)

Challenging the common order passed by the learned Single Judge in E.P. SR.Nos. 92265 & 92266 of 2021 holding that the Execution Petitions filed by the decree holders are maintainable, the judgment debtors have filed the above Original Side Appeals.

2. Mr. Suhrith Parthasarathy, learned counsel appearing for the



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appellants submitted that the appellants-judgment debtors are aggrieved over the findings of the learned Single Judge at para 4 of the order dated 09.12.2021.

3. The learned Single Judge, while dealing with 4th objection raised by the appellants stating that the property in question is situated outside the ordinary original jurisdiction of this Court and a composite petition for recognition and enforcement of a foreign award would only lie before the High Court having original jurisdiction in terms of the explanation to Sub Section 2 of Section 47 of the Arbitration and Conciliation Act, 1996. The learned Single Judge relying upon the judgment of the Hon'ble Supreme Court reported in **2020(10) SCC 1 [Government of India v. Vedanta Limited and others]** wherein the Hon'ble Apex Court concluded that a composite petition is required to be filed before the High Court concerned, as per the amendment to section 47 by Act 3 of 2016, held that a composite petition is maintainable only before this court as per para 83.9 of the said Judgment. Further, while holding that the Execution Petitions are maintainable, the learned Single Judge observed that the petition cannot

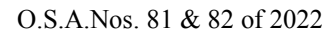


be rejected at the threshold on the ground of maintainability.

4. The learned counsel appearing for the appellants submitted that instead of going into the merits of the common order passed by the learned Single Judge, it would be suffice to permit the appellants to file their counter raising the issue with regard to maintainability of the petitions and the learned Single Judge may be requested to decide the said issue at the time of deciding the Execution Petitions.

5. Mr. Amitva Majundar, learned counsel appearing for the respondent submitted that this court has got jurisdiction to entertain the petitions and the learned Single Judge has rightly held that the petitions filed by the decree holders are maintainable. However, the learned counsel submitted that the liberty sought for by the learned counsel for the appellant may be given and the learned Single Judge may be requested to decide the said issue at the time of deciding the Execution Petitions.

6. Having regard to the submissions made by the learned counsel



With the above observations, the Original Side Appeals are disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Rj



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and
SUNDER MOHAN, J

Rj

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