



CRP.No.3785 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.11.2022

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CRP.No.3785 of 2022

and

CMP.No.19935 of 2022

1.Shyam R.Swaminathan
2.R.Raghunandan
3.Srividya Raghunandan

... Petitioners

Vs.

M/s.Orchid Homes
Sole Proprietorship Firm
Rep.by its Proprietor
Mr.V.Balasubramaniam
Flat No.1, "Orchid Ramani"
Door No.18/10, CIT Colony
2nd Link Street, Mylapore
Chennai 600 004.

... Respondent

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the conditional fair and decretal order dated 28.03.2022 passed in I.A.No.3 of 2021 filed in O.S.No.689 of



CRP.No.3785 of 2022

2021 on the file of the learned IV Additional City Civil Court, Chennai,
by allowing the revision petition.

For Petitioner : Mrs.Chitra Sampath
Senior Advocate

: Mr. P.Venkatesan

For Respondent : Mrs.G.Thilagavathi
Senior Advocate

Mr.Gopinath Radhakrishnan
Caveator

ORDER

This Civil Revision Petition is filed, challenging the condition imposed by the Court below directing the petitioners to deposit a sum of Rs.52 lakhs while allowing a petition seeking leave to defend the suit.

2. When the matter is taken up for hearing today, the petitioners have filed an undertaking affidavit stating that they are



CRP.No.3785 of 2022

undertaking to deposit a sum of Rs.25 lakhs on or before 19.01.2023 and also furnish a security by way of an unencumbered immovable property for a sum of Rs.27 lakhs on or before 19.01.2023 without prejudice to their contentions in the matter.

3. In view of the undertaking affidavit filed by the second petitioner, the Civil Revision Petition is disposed of by recording the said undertaking affidavit and no further orders are necessary in this revision.

4. If the petitioners failed to comply with the undertaking made by them before this Court on or before 19.01.2023, it is open to the respondent to proceed against them in accordance with law.

5. It is also brought to the notice of this Court that the petitioners had filed an application under Section 8 of the Arbitration Act in I.A.No.4 of 2022. In the impugned order while considering the



CRP.No.3785 of 2022

petition seeking leave to defend the suit, the Court below incidentally observed that the existence of Arbitration Clause in Joint Development Agreement dated 26.04.2017 is not an impediment to the Court from entertaining the suit.

6. In view of the fact that the petitioners had already filed an arbitration application in I.A.No.4 of 2022 invoking Section 8 of the Arbitration Act, the said application has to be considered by the Court below independently. Any observation made by the Court below in the impugned order will not affect the right of the revision petitioners to make their submission in the petition filed under Section 8 of the Arbitration Act.

7. It is also brought to the notice of this Court that I.A.No.4 of 2022 had been disposed of.

8. In view of the order passed in this revision I.A.No.4 of



CRP.No.3785 of 2022

2022 is restored to the file. It is open to the petitioners to make their submission on merits of the case in I.A.No.4 of 2022 and the Court below has to consider the same in accordance with law. It is always open to the respondent to file a counter in I.A.No.4 of 2022 and make its submission.

9. With the above directions, this Civil Revision Petition is disposed of. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

28.11.2022

Index : Yes / No
Internet : Yes / No
dna

To

The IV Additional City Civil Court, Chennai.



WEB COPY



CRP.No.3785 of 2022

S.SOUNTHAR , J.

dna

CRP.No.3785 of 2022
and
CMP.No.19935 of 2022

28.11.2022