



Arb.O.P.No.43 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.11.2022

CORAM

THE HON'BLE MR. JUSTICE C.V.KARTHIKEYAN

Arbitration Original Petition No.43 of 2022

and

Application No.5132 of 2022

1.Mr.R.Vetriventhan

2.Mrs.V.Mahalakshmi

... Petitioners

Versus

1.Mr.M.Ramesh

2.Mr.S.Pugazhendhi

... Respondents

Prayer: The Arbitration Original Petition filed under Section 14 (2) of the Arbitration and Conciliation Act, 1996, praying to terminate the mandate of the second respondent in Arbitration Case No.1 of 2022 in the disputes between the first respondent and the petitioners.

For Petitioners : Mr.Prashant Rajagopal

For Respondents : Mr.M.Mohideep Pitchai



ORDER

This Petition has been filed taking advantage of Section 14 (2) of the Arbitration and Conciliation Act, 1996, seeking interference with an arbitration proceeding, unilaterally commenced by the 2nd respondent herein.

2. There have been transactions between the petitioners and the 1st respondent. But to resolve such transactions they had never agreed that such resolutions should be referred to arbitration. They had taken a conscious decision that to resolve any disputes, the normal customary law will apply.

3. However, a notice had been issued by the learned counsel for the 1st respondent appointing himself as Arbitrator. The 2nd respondent had issued a follow up notice claiming that he is the Arbitrator and calling upon the parties to submit to his terms of reference.



4. The entire procedure is vitiated. The 2nd respondent cannot act as an Arbitrator. There is no agreement between the petitioners and the 1st respondent to refer disputes before any Arbitrator.

5. It is trite in law to point out that the parties can be referred to alternate mode of redressal of disputes only if they agree for the same.

6. It is under these circumstances, taking recourse to Section 14 (2) of the Arbitration and Conciliation Act, 1996, the present petition has been filed.

7. The arbitration proceedings had been stayed by an order dated 17.11.2022. Notice was directed to the 1st respondent.

8. The learned counsel has now entered appearance on behalf of the 1st respondent.

9. I must place on record my deepest appreciation that it is admitted that there is no arbitration clause covering the agreement between the petitioners and the 1st respondent.



Arb.O.P.No.43 of 2022

10. In view of the facts stated, I hold that the entire proceedings initiated by the 2nd respondent cannot stand the scrutiny of this Court and stand vitiated as being non est in the eyes of law.

11. The 1st respondent may initiate appropriate proceedings in manner known to law, to resolve any dispute he has against the petitioners herein.

12. With the above observation, the Arbitration Original Petition stands allowed. No costs. Consequently, the connected application stands closed.

30.11.2022

Index:Yes/No
Speaking Order : Yes/No
ssi



WEB COPY



Arb.O.P.No.43 of 2022

C.V.KARTHIKEYAN,J.

ssi

Arb.O.P.No.43 of 2022
and A.No.5132 of 2022

30.11.2022