

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH**

**CWP-18673-2021(O&M)**  
**Reserved on: 11.07.2022**  
**Date of Decision: 19.07.2022**

Gagan Deep and others

. . . . Petitioners

**Vs.**

M/s Cholamandalam Investment and Finance Company Limited and others

. . . . Respondents

**\*\*\*\***

**CORAM: HON'BLE MR JUSTICE M.S. RAMACHANDRA RAO**  
**HON'BLE MR JUSTICE H.S. MADAAN**

**\*\*\*\***

Present: - Mr.Lupil Gupta, Advocate,  
for the petitioners.

Ms.Puja Chopra, Advocate,  
for respondents No.1 & 2.

**\*\*\*\***

**M.S. RAMACHANDRA RAO, J.**

In this Writ Petition, the petitioners assail letter dt. 02.03.2021 (P4) issued by respondent No.3, who had been appointed as a sole arbitrator at Chennai to adjudicate the dispute between the petitioners and respondent No.1-Finance Company in relation to a loan agreement between the parties.

Petitioners availed a loan of ₹19 lakhs from respondent No.1 vide letter dt.30.04.2019 (P1). The loan documents were executed at Mansa, State of Punjab.

The petitioners committed default in payment of loan installments and they were sent a notice dt.22.01.2021 (P3) by the respondents 1 and 2 to pay ₹20,74,256/- as on 19.01.2021.

Respondent No.1 appointed vide Annexure P-4 dt.2.3.2021, the respondent No.3 as an Arbitrator on 02.03.2021 as per Clause 26 of the *loan*

*agreement* to adjudicate the dispute between the parties. The respondent No.3, issued notice initially on 30.3.2021 fixing the date of hearing as 119.4.2021 and when the petitioners did not appear, he gave another notice Annexure P-7 dt.29.4.2021 to petitioners fixing the hearing on 17.5.2021 at Chennai.

Subsequently, the respondents 1 and 2 also issued notice Annexure P-8 dt.8.6.2021 under sec.13(2) of the SARFAESI Act,2002 to the petitioners stating that their loan account had become an NPA as on 24-3-2021 and as on 7.6.2021, they were to pay ₹21,81,071/-. Petitioners also gave a reply Annexure P-9 dt. on 20.7.2021 to the said notice.

Petitioners contend that since all the loan documents were executed at Mansa in the State of Punjab, the arbitration proceedings could not have been initiated at Chennai and it would be illegal and without jurisdiction. According to the petitioners, the arbitration proceedings were intentionally initiated at Chennai so as to deprive them from joining the proceedings.

Petitioners seek quashing of Annexure P4 letter dt. 02.03.2021 issued by respondent No.3, and also for a direction to respondents No.1 & 2 to conduct arbitration proceedings at Mansa. They also seek a direction to the respondents to consider their case for settlement as per OTS Scheme (P11) of respondents, and to restrain the respondents from taking possession from the mortgaged property during the pendency of the Writ Petition.

Ms.Puja Chopra, Advocate, appearing for respondents No.1 & 2 stated that the petitioners are not participating in the arbitration proceedings on the ground that the instant Writ Petition is pending, that the loan account of the petitioners was declared NPA on 24.03.2021 and the petitioners had ignored the letters dt.02.03.2021 (P4), 30.03.2021 (P6) and 29.04.2021 (P7) issued by the Arbitrator, and only as an afterthought they have filed this Writ Petition

with an intention to prevent respondents No.1&2 from recovering the loan dues. She also stated that on 08.06.2021 (P8), the respondents No.1&2 had invoked provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 [for short 'the SARFAESI Act'] by issuing a notice under Section 13(2) of the SARFAESI Act; that petitioners replied to the same on 20.07.2021 (P9) through their counsel and their objections were rejected by respondents No.1&2 on 29.07.2021 (P10).

We may point out that the loan was sanctioned to the petitioners on 30.04.2019 for ₹19 lakhs and the loan agreement was executed by the petitioners at that time agreeing to all the clauses contained therein including Clause 26 thereof which provided for arbitration proceedings to be held at Chennai.

Only in September 2021, after the petitioners had committed default in payment of loan, and the respondents No.1 & 2 had invoked the arbitration clause (clause 26) and appointed respondent No.3 as an arbitrator on 2.3.2021 and he issued a notice to the petitioners on 29.4.2021, this Writ Petition has been filed challenging the initiation of arbitration proceedings at Chennai.

It is thus clear that the petitioners, with open eyes, signed the loan agreement in April 2019 containing Clause 26 (Arbitration Clause) providing for arbitration in Chennai, and belatedly, after committing default in payment of the loan EMIs and when recovery process was commenced by respondents No.1&2 by invoking the said arbitration clause in March 2021, they filed the present Writ Petition as an afterthought.

Having signed the loan agreement and having agreed to all terms contained therein, petitioners are estopped by their conduct from challenging the said proceedings initiated by the Arbitrator on the mere ground that Chennai is far away from Mansa where they stayed.

We, therefore, do not find any merit in the Writ Petition and the same is accordingly dismissed. No costs.

**(M.S. Ramachandra Rao)**  
**Judge**

**19.07.2022**

*Vivek*

**(H.S. Madaan)**  
**Judge**

- 1. Whether speaking/reasoned?*
- 2. Whether reportable?*

*Yes/No*  
*Yes/No*