



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.02.2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

C.R.P.No.217 of 2023

and

C.M.P.No.1792 of 2023

Mrs.Mumtaj Begum
W/o.Saleem Khan B,
Rep by her Power Agent
Mr.Saleem Khan B, S/o.Basha
Appointed by Special Power of Attorney
dated 07.04.2022

Residing at:
Old No.5, New No.16,
Syed Wahab Hussain Street,
Mylapore, Chennai – 600 004.

... Petitioner

Vs.

1.M/s.Shriram Transport Finance Company Ltd.,
Rep.by its Branch Head,
Having its office at:
New No.70, Old No.27, S-4, 2nd Floor,
North Mada Street, Mylapore,
Chennai – 600 004.

2.M/s.Shriram Transport Finance Company Ltd.,
Rep.by its Branch Head,
Having its office at:
Old No.11, New No.47, Sai Guru Kirpa,



Door No.3A, Thiruvannamiyur,
Chennai – 600 041.

3.M/s.Shriram Transport Finance Company Ltd.,
Rep.by its Zonal Head,
Having its office at:
No.14A, South Phase, Industrial Estate,
Guindy, Chennai – 600 032.

... Respondents

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the order dated 12.12.2022 passed in I.A.No.05 of 2022 in O.S.No.2834 of 2022 on the file of the XX Assistant City Civil Court at Chennai and consequently restore the same.

For Petitioner : Mr.Yusuf S.Q

ORDER

The Civil Revision Petition has been filed against the order dated 12.12.2022 passed in I.A.No.05 of 2022 in O.S.No.2834 of 2022 on the file of the XX Assistant City Civil Court at Chennai and consequently, restore the same.

2. The revision petitioner is the plaintiff, instituted a suit for permanent injunction. During the pendency of the suit, the respondent filed an Interlocutory Application in I.A.No.5 of 2022 under Section 8 of Arbitration and Conciliation Act, 1996 to refer the dispute to the Arbitrator.



WEB COPY

3. The trial Court adjudicated the issues and made a finding as follows:

“10. Once there is an agreement between the parties to refer the disputes or differences arising out of the agreement to arbitration, and in case either party, ignoring the terms of the agreement, approaches the civil court and the other party, in terms of the Section 8 of the Arbitration Act, moves the court for referring the parties to arbitration before the first statement on the substance of the dispute is filed, in view of the peremptory language of Section 8 of the Arbitration Act, it is obligatory for the court to refer the parties to arbitration in terms of the agreement, as held by this Court in P.Anand Gajapathi Raju and others v. P.V.G.Raju (Dead) and others [(2000) 4 SCC 539]”.

4. When there is an agreement between the parties for Arbitration under the provisions of the Arbitration and Conciliation Act, 1996, then the suit is not entertainable and accordingly, the trial Court allowed the Interlocutory Application, enabling the parties to resolve the disputes through Arbitration.



WEB COPY

5. The learned counsel for the revision petitioner made a submission that there is no valid Arbitration agreement exists under Section 8 of the Act and therefore, the order passed by the Trial Court is perverse. The hypothecation-cum-loan agreement is unilateral in nature. The power to appoint an Arbitrator vests with the respondents herein and they are not appointing the Arbitrators and thus, the revision petitioner is deprived of her opportunity even for adjudication of issues.

6. Such an argument deserves no merit consideration, in view of the fact that the revision petitioner admittedly signed the hypothecation-cum-loan agreement and thus, the terms and conditions stipulated are binding on the parties. That apart, the trial court passed an order on 12.12.2022 and immediately, the revision petitioner preferred a revision before this Court. Thus, the said ground has no relevancy with reference to the time gap noticed. Since the Court passed an order, directing the parties to resolve the issues through Arbitration, the respondents shall appoint an Arbitrator and accordingly, adjudicate the disputes on merits and in accordance with law.



C.R.P.No.217 of 2

7. With these observations, the Civil Revision Petition in C.R.P.No.217 of 2023 stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

WEB COPY

03.02.2023

kak
Index : Yes
Speaking order
Neutral Citation : Yes

To

The Judge,
XX Assistant City Civil Court,
Chennai.



WEB COPY

C.R.P.No.217 of 2



S.M.SUBRAMANIAM, J.

kak

C.R.P.No.217 of 2023

03.02.2023