



WEB COPY



O.S.A.(CAD) No.37 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.04.2023

CORAM

THE HONOURABLE MR.T.RAJA, ACTING CHIEF JUSTICE

AND

THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

O.S.A.(CAD) No.37 of 2023

M/s.Harmony Residence Private Limited,  
Rep. by its Director S.Ramakrishnan,  
having registered office at “Sai Prasad”,  
New No.11, Old No.42, 12<sup>th</sup> Avenue,  
Ashok Nagar, Chennai – 600 083.

.. Appellant

Versus

1.Mr.R.Sivasankaran

2.Mrs.Annapurna Sivasankaran

.. Respondents

Prayer: Original Side Appeal has been filed under Section 13(1) of the Commercial Courts Act and under Order 36 Rule 9 of the Original Side Rules read with Clause 15 of Letters Patent against the order passed by the learned Single Judge in Arbitration OP (Com.Div.) No.598 of 2022, dated 02.03.2023.

For Appellant

: Mr.G.Ilamurugu

### **JUDGMENT**

(Delivered by The Hon'ble Acting Chief Justice)

The appellant has filed this appeal against the impugned order passed by the learned Single Judge in Arb.O.P(Com.Div).No.598 of 2022, dated 02.03.2023, appointing the Hon'ble Mr.Justice M.Vijayaraghavan (Retd.), as the Arbitrator to enter upon reference and adjudicate the dispute *inter se* the parties.



2. Learned Single Judge, on appreciating the fact that a case has been made out for appointment of the Arbitrator for adjudication of the dispute between the parties, has appointed the Arbitrator to enter upon reference and adjudicate the dispute between the parties. However, learned counsel for the appellant, by referring to Clause 9 of the Agreement for Development dated 05.02.2018, argued that no amendment of any other terms of the agreement is valid unless the same is signed by both parties. Therefore, the respondents cannot claim interest contrary to the terms of the agreement. For better appreciation, relevant portion of Clause of 9 of the said agreement is extracted hereunder:-

*“9.....No amendment of any other terms or provisions of this agreement shall be valid unless made in writing and signed by the both the OWNERS and the DEVELOPER herein.....”*

3. In our considered view, the above said issue raised by the appellant with regard to interest shall also be raised before the learned Arbitrator for a decision. With this observation, we are not inclined to entertain the appeal and it is dismissed accordingly. No Costs. Consequently, connected miscellaneous petitions are closed.

**(T.R., ACJ.) (D.B.C., J.)**  
**12.04.2023**

rkm  
Index:yes/no  
Speaking/non-speaking



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and  
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