



OSA(CAD) No.61 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.11.2023

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

AND

THE HONOURABLE MR.JUSTICE P. DHANABAL

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M/s.Cholamandalam Investment and Finance
Company Limited,
No.45, Justice Basheer Ahmed Sayeed Building,
II nd Floor, 2nd Line Beach, Moore Street,
Parrys, Chennai-600001.

... Appellant

versus

Mr.Harkhabhai Amarshibhai Vaghadiya

... Respondent

PRAYER: Appeal filed under Section 96 of CPC read with Order 41 & 41A of CPC, to set aside the decree and judgment dated 18.11.2022 in Commercial Original Suit No.6 of 2022 on the file of Learned District Judge, Commercial Court, Salem and dismiss the suit with cost thereby allow this appeal.

For the Petitioner :Mr.M.S.Krishanan
Senior Counsel
Mr.T.Danyakumar
Mr.D.Pradeep Kumar

For the Respondent : No appearance



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Judgment

(Judgment of the Court was delivered by *D.KRISHNAKUMAR, J.*)

Notice sent to the respondent has been returned with an endorsement 'Refused'. Therefore, service is deemed to be effected on the respondent.

2. M.S.Krishnanan, learned Senior Counsel appearing for the appellant has fairly made a statement before this Court that the learned Single Judge dismissed the Arbitration Application filed by the appellant on the ground that the appellant was not able to demonstrate manifest intention to arbitrate and commence arbitration proceedings.

3. At this juncture, learned Senior Counsel made a request before this Court that the order passed in the Arbitration Application shall not be a binding precedent in similar cases to be filed by the appellant. Therefore, he seeks for an observation that any such application filed by the appellant before the learned Single Judge, the same may be considered on its own



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facts and merits of the case. He also drew attention of this Court to Section 9(2) of the Arbitration and Conciliation Act, 1996 and sought for liberty to invoke arbitration proceedings in accordance with Section 9(2) of the Arbitration and Conciliation Act.

4. In view of the submission made by the learned Senior Counsel for the appellant that since the matter has not been decided in the present appeal, it is left open to the appellant to raise all the grounds and agitate in appropriate similar cases to decide the maintainability of the original petitions by invoking arbitration proceedings in accordance with Section 9(2) of the Arbitration and Conciliation Act, 1996.

5. With the above observations, the Original Side Appeal stands dismissed. There will be no order as to costs.

[D.K.K., J.] [P.D.B., J.]
23.11.2023

Index : Yes/No
Neutral Citation : Yes/No
mrn

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