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CRP. No. 4108 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.11.2023

CORAM:

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

CRP No. 4108 of 2023
& CMP No. 25072 of 2023

M/s. Wayne Burt Petrochemicals Pvt.Ltd.,
Represented by its Director
Having office at No.A-10,
SIPCOT Industrial Park,
Irungattukottai, Sriperumbudur,
Kancheepuram District – 601 105.

...Petitioner

Vs.

M/s. Competition Team Technology
India Private Limited
Represented by its Authorised signatory
Mr.Hemananda Kumar
Block – B Indo Space Industrial Park
Panrute Village, Oragadam
Sriperumbudur Taluk
Kancheepuram District – 631 604.

....Respondents

PRAYER : This petition filed under Article 227 of the Constitution of India, to set aside the rejection order dated 27.06.2023 made in unnumbered



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I.A.S.R No. 7866 of 2023 in O.S No. 41 of 2022 on the file of the District Judge II, Kancheepuram.

For Petitioners : Mr.A.V. Arun

ORDER

This petition has been filed to set aside the rejection order dated 27.06.2023 made in unnumbered I.A.S.R No. 7866 of 2023 in O.S No. 41 of 2022 on the file of the District Judge II, Kancheepuram.

2. The petitioner herein filed O.S No. 41 of 2022 before the District judge – II, kanchipuram for the relief of recovery of money and other consequential relief. After receiving the notice the petitioner herein appear through his counsel and filed application before the Trial Court praying to refer the matter to arbitration for adjudication by referring clause 21 of agreement dated 15.11.2017 entered into between the parties, but the said petition was returned by the Trial Court holding that the suit was posted on 22.06.2022 for filing written statemetnt. So far, written statement was not filed. The petition seems to be not in accordance with law. Petition seems to to be filed only to gain time. Thereafter, the petitioner replied that since the agreement between the parties contain arbitration clause and the petitioner shall invoke the claim under Section 8 of the Arbitration clause before filing



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his defence. Therefore, this petition is filed before filing the written statement. However, the said petition was returned on 27.06.2023 stating that not complied. Hence the petitioner filed this petition.

3. The learned counsel for the petitioner submits that as per the clause 21 of the agreement if there is dispute between the parties they undertake to attempt to settle the dispute by way of mediation before commencing arbitration or litigation. But the Trial Court failed to appreciate the above clause of the agreement and erroneously failed to number the application. Hence he prays to allow this petition.

4. Considering the facts of the case, there is a clause in the agreement entered between the parties with regard to arbitration for adjudication but the Court below failed to appreciate this fact and erroneously returned the application as such is erroneous. Hence, the rejection order dated 27.06.2023 made in unnumbered I.A.S.R No. 7866 of 2023 in O.S No. 41 of 2022 is set aside. After numbering the application the Trial Court shall dispose of the matter within a period of two weeks as per manner known to law.

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