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C.R.P.(PD)2401 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.08.2023

CORAM :

THE HONOURABLE MR.JUSTICE V. LAKSHMINARAYANAN

C.R.P.(PD)No.2401 of 2019
and CMP.No.15890 of 2019

Cybercity Builders & Developers Private Limited,
Rep. by its Managing Director Venu Vinod.
Cyber City, Green Hills Road,
Near Hi-Tech City, MMTS, IDL Road, KPHB,
Hyderabad-500 072.

.. Petitioner

VS

1.M.V.Salai Abaranam
2.B.Anubhama
3.S.Bhaskaran

R.Kalanjiam (died)

4.K.Venkatraman
5.Vistra ITCL (India) Limited
Karamuttu Centre, 3rd Floor, South Wing,
Anna Salai, Chennai-600 035.

.. Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the order dated 11.08.2018 passed in I.A.No.130/2017 in Arbitration O.P.No.58/2015 on the file of the District Judge-II at Kanchipuram.



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For Petitioner : Mr.S.Rajasekar

For Respondents : Mr.N.Devaraj (for R1)

Ms.Balambigai (for R2)
for Mr.S.Namasivayam

Mr.S.Rajkumar (for R3)

Ms.N.Dhanalakshmi (for R4)

Mr.P.Madhivanan (for R5)

ORDER

This revision arises against an order passed by the learned Principal District Judge-II, Kanchipuram in I.A.No.130 of 2017 in Arbitration O.P.No.58 of 2015. Arbitration O.P.No.58 of 2015 is a post award Arbitration initiated by the respondents. They were successful and obtained a decree in O.P.No.82 of 2008 before the Arbitrator on 07.07.2014.

2.The parties to the arbitration are the petitioner and the respondents in Arbitration O.P.No.58 of 2015. Pending proceedings, an application was taken out in I.A.No.130 of 2017 to implead the civil revision petitioner and his mortgagee, the fifth respondent. The fifth respondent has not filed any revision before this Court.

3.The claim of the Civil Revision Petitioner is that he is a rank



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outsider and un-connected with the transactions between the petitioner/decree holder i.e., M.V.Salai Abaranam and B.Anubhama and S.Bhaskaran. He would claim independent title over the property stating that the property originally belonged to Mr.Manali Parthasarathy Mudaliar. The legal representative of the said Manali Parthasarathy Mudaliar had alienated the property in favour of one Anugraha Real Value Services (Chennai) Pvt. Ltd., who in turn alienated the property in favour of the civil revision petitioner on 03.10.2016. Subsequent to the purchase, they had mortgaged the property in favour of Vistra ITCL (India) Ltd. on 01.06.2017.

4.It is the categoric case of the civil revision petitioner that they are no way connected to the transaction between M.V.Salai Abaranam and B.Anubhama and S.Bhaskaran.

5.Heard Mr.S.Rajasekar, learned counsel appearing for the petitioner, Ms.Balambigai, learned counsel for Mr.S.Namasivayam, learned counsel for the 2nd respondent, Mr.Rajkumar, learned counsel for the 3rd respondent, Ms.N.Dhanalakshmi, learned counsel for the 4th respondent and Mr.P.Madhivanam, learned counsel for the 5th respondent.

6.A perusal of the order passed by this Court in O.P.Nos.18 and 19



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of 2015 dated 09.11.2017 fortifies the submission made by Mr.Rajasekar.

The petitioner Cybercity Builders and Developers Private Limited are not parties to any of the proceedings. The sale deed also shows that the predecessor in title was one Mr.Manali Parthasarathy Mudaliar and he is no way connected to the judgment debtors Bhaskaran and Anubhyama.

7.When the matter came up last week, I requested Mr.Rajkumar to state as to on what grounds his client had moved an application to implead a third party to the Arbitration O.P. filed under Section 9.

8.Mr.Rajkumar would very fairly state today that the implead application was filed under the impression that Anubhama was a Director in Anugraha Real Value Services (Chennai) Pvt. Ltd. the vendor of the civil revision petition. On verification, he states that it is not the situation.

9.While the Court has the power to implead a person, who is a third party to the Arbitration proceedings, there must be some subsisting interest or a transfer of interest from the judgment debtor in favour of the proposed parties. That situation has not arisen in the present case. The presence of the Civil Revision Petitioner and the fifth respondent is neither necessary nor proper for the adjudication of Arbitration O.P.No.58 of 2015 or E.P.No.85 of 2018 filed pursuant to the Arbitration



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award before the Principal District Judge, Chengalpattu.

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10. Since the petitioner and the fifth respondent are no way connected to the transaction between the decree holder and the judgment debtor and since the judgment debtor have no interest either in the Vendor company or in the purchaser/civil revision petitioner/5th respondent, I am constrained to interfere with the order of the learned trial Judge allowing the application. The Civil Revision Petition is allowed and the order passed in I.A.No.130 of 2017 dated 11.08.2018 is set aside. No costs. Consequently, connected miscellaneous petition is closed.

21.08.2023

Index: Yes/No

Speaking order/Non-speaking order

Neutral Citation: Yes/No

rjr/vs

To

The District Judge-II,
Kanchipuram.



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V. LAKSHMINARAYANAN,J.

rjr/vs

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