



C.R.P(MD)No.573 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **06.03.2023**

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

C.R.P(MD)No.573 of 2023

and

C.M.P(MD)No.2686 of 2023

1.M/s.Meenakshi Textiles,
A partnership firm represented through its Partner,
R.Ammaiyappan,
having registered office at No.4/11,
Kamaraja Nagar,
Seithur Road, Dhalavaipuram,
Virudhunagar District.

2.R.Ammaiyappan

3.A.Mathavan

4.A.Kaleeswaran

... Petitioners/
Respondents

Vs.

1.Dr.Lalitha R.Raja

2.Dr.Yogesh Raja

3.Karthick Raja

4.Dr.A.Ramamoorthi

*(No relief sought for against the
fourth respondent. Hence given
up)*

... Respondents



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PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the order, dated 03.12.2022 made in I.A.No.3 of 2022 in Arbitration Case No.41 of 2022 on the file of the Hon'ble Arbitral Tribunal, Srivilliputhur.

For Petitioner : Mr.Sasikumar
For Mr.A.Mohan
For Respondent : No Appearance

ORDER

The present Civil Revision Petition has been filed under Article 227 of the Constitution of India to set aside the order, dated 03.12.2022 in I.A.No.3 of 2022 in Arbitration Case No.41 of 2022.

2. *Prima facie*, the civil revision petition filed under Section 227 of the Constitution of India is not maintainable as the arbitral Tribunal is not the Tribunal for the purpose of filing petition under Article 227 of the Constitution of India. Be that as it may, the order impugned in the civil revision petition, dated 03.12.2022 rejects the request of the petitioner for appointing the second arbitrator so that the third arbitrator can be appointed. The arbitration clause between the petitioner and the respondent reads as under:



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“7.Dispute Resolution:

Any disputes between the parties arising out of or relating to or in connection with this agreement only Courts situated in Srivilliputhur shall have jurisdiction. Any dispute arising between the parties shall be resolved by arbitral proceedings only. The provisions of the Arbitration and Conciliation Act, 1996 shall govern the arbitral proceedings.”

A reading of the above clause indicates that the dispute is to be resolved by arbitral proceedings.

3. The agreement between the petitioner and the respondents in the aforesaid agreement, dated 14.06.2017 does not contemplate a procedure. In case, the petitioner is aggrieved by the manner in which the arbitral proceedings were conducted, it was open for the petitioner to approach the Principal Bench under Section 11 of the Arbitration and Conciliation Act.

4. The present civil revision petition challenging the order passed by the learned arbitrator after the passing of the aforesaid order on 03.12.2022 appears to have been filed with a view to pre-empt the learned arbitrator from passing the award. The options are available to



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the petitioner under Section 11 of the Arbitration and Conciliation Act and in case, if there is any deviation in the appointment of the said arbitrator, it is open for the petitioner to file appropriate application not only for challenging the appointment made but also to terminate the mandate of the learned arbitrator. The civil revision petition is dismissed with liberty while preserving the rights of the petitioner to initiate appropriate proceedings under Section 11 of the Arbitration and Conciliation Act, 1966.

5. In case, an award has been already passed, the award shall be kept in abeyance for a period of four weeks to facilitate the petitioner to work out his remedy under Section 34 of the Arbitration and Conciliation Act, 1966. No costs. Consequently, connected miscellaneous petition is closed.

06.03.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

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Note: Issue order copy on 08.03.2023.



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To

- 1.The Arbitral Tribunal, Srivilliputhur.
- 2.The Section Officer
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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C.SARAVANAN,J.

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