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CRP.Nos.624 & 625 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.02.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CRP.Nos.624 & 625 of 2024

and

CMP.Nos.3083 & 3085 of 2024

1.M/s.Hanudev Infopark Pvt.Ltd.,
Rep.by its Authorised Signatory Mr.R.Neelakanthan
Having Office at R.R.Towers
III-Thiru.Vi.Ka.Industrial Estate
Guindy, Chennai 600 032.

2.M/s.Rithwik Infrastructure Pvt.Ltd.,
Rep.by its Authorized Signatory Mr.R.Neelakanthan
Having Office at R.R.Towers
III-Thiru.Vi.Ka.Industrial Estate
Guindy, Chennai 600 032.

3.M/s.Rithwik Infopark Pvt.Ltd.,
Rep.by its Authorised Signatory Mr.R.Neelakanthan
Having Office at R.R.Towers
III-Thiru.Vi.Ka.Industrial Estate
Guindy, Chennai 600 032

...Petitioners in both CRPs

Vs.



CRP.Nos.624 & 625 of 2024

- 1.Andal Dorairaj
- 2.Vidhya Sharathrm
- 3.D.Sharathram

...Respondents in both CRPs.

Prayer in CRP.No.624 of 2024: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the order dated 01.02.2024 passed in E.P.No.03 of 2023 (on the file of the Court of Judge, Commercial Court (District Judge Cadre), Coimbatore, in Award in Arbitration Case No.9 of 2020 (on the file of Sole Arbitrator and allow the above Civil Revision Petition.

Prayer in CRP.No.625 of 2024: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the order dated 01.02.2024 passed in E.P.No.04 of 2023 (on the file of the Court of Judge, Commercial Court (District Judge Cadre), Coimbatore, in Award in Arbitration Case No.9 of 2020 (on the file of Sole Arbitrator Mr.K.Kannan, Retired High Court Judge) and allow the above Civil Revision Petition.

For Petitioners : Mr.Arvind Pandian
Senior Counsel
for Mr.R.Bharathkumar

For Respondents : Mr.M.S.Krishnan
Senior Counsel
for Mr.K.S.Karthik Raja

ORDER



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Heard the arguments of Mr.Arvind Pandian, learned Senior Counsel for the petitioner. Mr.M.S.Krishnan, learned Senior Counsel, on instructions from the counsel on record, takes notice on behalf of the respondents.

2. The respondents herein obtained an award for recovery of 1,95,463.862 sq.ft of built-up area corresponding to 2.67 FSI and also recovery of a sum of Rs.83,96,23,641.93/-. Aggrieved by the said award, the petitioners filed petitions under Section 34 of Arbitration and Conciliation Act, 1996 r/w Section 10 (3) of the Commercial Courts Act, 2015 in AOP Nos.28, 29 and 30 of 2022 on the file of the Principal District Judge, Coimbatore. The respondents filed civil revision petitions in C.R.P.(PD).Nos.1641, 1647 and 1648 of 2022 before this Court questioning the territorial jurisdiction of Principal District Judge, Coimbatore in entertaining Section 34 petitions. The said civil revision petitions were allowed by this Court by directing the Principal District Judge, Coimbatore to return the above said arbitration original petitions with direction to represent before the High Court of Madras. Accordingly, the petitioners represented the



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papers before the High Court and the same was returned for certain complaints. In the meantime, the petitioners preferred SLP challenging the order passed by this Court in the above mentioned civil revision petitions. The Hon'ble Apex Court by order dated 10.01.2023 stayed the operation of the order passed in C.R.P.(PD).Nos.1641, 1647 and 1648 of 2022. Since the Hon'ble Apex Court stayed the order passed by this Court in the said civil revision petitions, the petitioners again represented the papers returned by the High Court before the Principal District Judge, Coimbatore and subsequently, due to creation of new Commercial Court for Coimbatore, the petitioners represented the papers before the Commercial Court, Coimbatore.

3. In the meantime, the respondents filed execution petition in E.P.No.3 of 2023 on the file of the Commercial Court, Coimbatore seeking delivery of possession of the property mentioned in the award. The Executing Court allowed the said execution petition by directing the petitioners to deliver the possession. Aggrieved by the said order, the petitioners are before this Court.



4. The learned counsel appearing for the petitioners submitted that when the order passed by the High Court in civil revision petition was stayed by the Hon'ble Apex Court, the Executing Court ought not to have allowed order of delivery.

5. Mr.M.S.Krishnan, learned Senior Counsel for the respondents submitted that in view of stay granted by the Hon'ble Apex Court in **Special Leave Petition (Civil)..... Diary No(s).31330/2022**, there may not be any impediment for the petitioner herein to represent the Arbitration Original Petitions in OP.Nos.28, 29 & 30 of 2022 filed under Section 34 of the Arbitration Act before the Commercial Court, Coimbatore and proceed with the same. The learned Senior Counsel for the respondents further submitted that this submission is made without prejudice to the contention of the respondents in SLP pending before Hon'ble Apex Court. The said statement of the learned Senior Counsel for the respondents is recorded.

6. In view of the eclipse created by stay order passed by Hon'ble Apex



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Court, the order passed by this Court in C.R.P.Nos.1641, 1647 and 1648 of 2022 has become inoperative. Hence, there is no impediment for petitioners to proceed with original petitions filed under Section 34 of Arbitration Act and workout their remedy before Court at Coimbatore. Hence, the petitioners are directed to approach the Commercial Court, Coimbatore and represent the original petitions filed under Section 34 of the Arbitration Act and work out the remedy before the concerned Court within a period of three weeks from today. Till then, both the parties shall maintain status-quo. With these directions, both the Civil Revision Petitions are disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

09.02.2024

Index : Yes / No
Internet : Yes / No
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WEB COPY **To**

The Commercial Court (District Judge Cadre), Coimbatore,



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S.SOUNTHAR, J.
dna

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