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CRP No.2710 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.02.2024

CORAM

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

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1.M/s.R.K.M.Process

Represented by its Proprietor G.Ramesh,
Office at No.2, Royapuram Extension,
Synthetic Dyers Compound,
Tiruppur-641 601.

2.G.Ramesh

: Petitioners

Vs

M/s.Subam Traders,

Represented by its Partner P.Senthilkumar

: Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India to call for the records in C.O.S.No.40 of 2022 pending on the file of the Principal Subordinate Judge, Tiruppur, and strike off the same and orders.

For Petitioners

: Mr.K.Venkateswaran

For Respondent

: Mr.G.Krishna Kumar



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ORDER

The civil revision petition is filed to call for the records in C.O.S.No.40 of 2022 pending on the file of the Principal Subordinate Judge, Tiruppur, and strike off the same.

2. Learned counsel for the petitioners submits that the petitioners are the defendants and respondent is the plaintiff in COS No. 40 of 2022 on the file of the Learned Principal Subordinate Judge, Trippur. Learned counsel contended that the respondent had already initiated arbitration proceedings under the Act. Under these circumstances, filing the suit in COS No.40 of 2022 for the same cause of action is unsustainable. Therefore, the petitioners have this civil revision petition to strike off the same.

3. Learned counsel appearing for the respondent submitted that there is no arbitration agreement between the parties. The respondent/plaintiff had approached the Arbitration Council at Tiruppur and notice was sent to the



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petitioners. On receiving the said notice, the petitioners have sent reply notice on 17.12.2019, and on the same day, both parties recorded terms of settlement. But it was not perused further and hence, it was closed. Therefore, the suit has been filed with regard to the transaction of supply of dyes and chemicals to the petitioners/defendants and claimed Rs.15,36,709/- based upon the invoice raised by the petitioners/defendants. Hence, there is no ground to strike off the plaint.

4. Heard the learned counsel for the parties and perused the materials available on record.

5. Learned counsel for the petitioners submits that the petitioners are the defendant and respondent is the plaintiff in COS No. 40 of 2022 on the file of the Learned Principal Subordinate Judge. The suit has been filed with regard to the transaction of supply of dyes and chemicals to the petitioners/defendants and claimed Rs.15,36,709/- based upon the invoice raised by the petitioners/defendants.



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6. I have gone through the plaint averments. It is noticed that there is a transaction between the plaintiff and the defendants with regard to supply of dyes and chemicals to the petitioners. In this regard, it is alleged that now there is an outstanding amount of Rs.15,36,709/- and it is claimed by the respondent. The only ground for striking off the plaint as per the petitioners is the respondent/plaintiff had already initiated the arbitration proceedings against the petitioners and simultaneous proceedings is impermissible.

7. When the matter taken up, it is submitted that there is no arbitration agreement between the parties. Further, the Arbitration Council sent notice to the petitioners and though both parties arrived at some terms, the arbitration proceedings was not initiated and no such proceedings is pending. With regard to transaction between the parties and with regard to outstanding amount, it has to be decided by the trial court. It is a triable issue based upon the evidence let by the parties. Therefore, under these circumstances, it is improper to strike of the plaint before letting evidence by



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the respective parties and it could be decided only after considering the evidence about the supply of dyes and chemical. Hence, I find no ground to strike off the plaint. There is no merit in the Revision. Therefore, the civil revision petition is dismissed.

8. Liberty is given to the petitioners with regard to arbitration proceedings allegedly initiated by the respondent/plaintiff. There shall be no order as to costs. Consequently, CMP No.16717 of 2023 is closed.

19.02.2024

Index: Yes/No
Internet: Yes/No
mrn



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To
The Principal Subordinate Judge, Tiruppur



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V.SIVAGNANAM, J.

(mrn)

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