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C.R.P.(PD).No.3179 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.08.2024

CORAM :

THE HON'BLE MR.JUSTICE V.LAKSHMINARAYANAN

C.R.P.(PD).No.3179 of 2024
and C.M.P.Nos.17014 of 2024

Cholamandalam Investment and Finance Company
Limited,
Represented by its Manager, having its office at
Dare House, 1st Floor, No.2, N.S.C.Bose Road,
Chennai - 600 001.

.. Petitioner

Versus

K.Srivats

.. Respondent

Prayer : Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the order and decretal order passed the learned XVII Assistant City Civil Judge, Chennai dated 27.06.2024 made in I.A.No.2 of 2023 in O.S.No.6236 of 2023 and allow this revision petition.

For Petitioners : Mr.K.B.Vivekanandhan

ORDER

This Civil Revision Petition arises against the order passed by the learned XVII Assistant City Civil Judge, Chennai in I.A.No.2 of 2024 in O.S.No.6236 of 2023, dated 27.06.2024.



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2. The revision petitioner is the defendant in the suit. The respondent/plaintiff presented O.S.No.6236 of 2023 before the City Civil Court, Chennai pleading that the petitioner/defendant must not interfere with his peaceful living or his personal life under the guise of collecting money for the loan given in the loan account No.PLTCHAS000005551117. The cause of action is that the petitioner/defendant had been sending recovery agents to the house of the respondent/plaintiff at Virugumbakkam in Chennai. He would state that on account of the visit of the recovery agents, he is unable to enjoy his life peacefully and it is affecting him personally.

3. He would also plead that on 04.09.2023, three recovery agents came to his house and started abusing him in vulgar language. He would also state that with the help of neighbours, he drove away the recovery agents. Therefore, the recovery agents informed him that they will engage goondas to come to his house and ensure that his life is put to threat. It is on these allegations, the plaint came to be presented.



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4. The petitioner/defendant, on service of notice, took out an application under Sections 5 and 8 of the Arbitration and Conciliation Act and sought for dismissal of the suit. The learned XVII Assistant Judge would have none of this and dismissed the petition. Against which, the present Revision is filed.

5. Mr.K.B.Vivekanandhan, learned Counsel for the petitioner/defendant would submit that clause 26 of the loan agreement covers the issue involved in the suit and therefore, the appropriate remedy is only via arbitration. Hence, he would state that the suit has to be referred to arbitration in terms of Section 8 of the Arbitration and Conciliation Act.

6. The issue before the Court is that the respondent/plaintiff is under threat for his life on account of the civil revision petitioner engaging collection agents and goondas and thereby, disturbing the life of the respondent/plaintiff. This certainly will not be covered by a loan agreement. No loan agreement would cover a situation where, for the recovery of the dues, a financial institution like the civil revision petitioner can engage recovery agents and send them to the house of the borrower and threatening



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him/her in case of default. The scope of the arbitration clause is confined to the recovery and other aspects relating to the loan and not to the personal life of the respondent/plaintiff. I do not find any reason to take a different opinion from that taken by the learned XVII Assistant Judge.

7. This Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

08.08.2024

Index : yes/no
Speaking order/Non-speaking order
Neutral Citation : yes/no
grs

To

The XVII Assistant City Civil Judge,
Chennai.



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V.LAKSHMINARAYANAN, J.

grs

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