



WEB COPY



C.R.P. (PD) .Nos. 4324, 4325 & 4329 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 24.10.2024

CORAM

THE HONOURABLE Mr. JUSTICE V.LAKSHMINARAYANAN

C.R.P.(PD).Nos. 4324, 4325 & 4329 of 2024

&

C.M.P.Nos. 24039, 24041 & 24061 of 2024

BVM Global Educational Trust
Represented by Managing Trustee
Mr.A.S.Ramana Prasad
No.58, 4th Main Road, Gandhi Nagar,
Chennai – 600 020.

...Petitioner in all Petitions

Vs.

1.BSCPL Infrastructure Limited
Represented by Senior Manager and Accounts Officer
Mr.Narendra
Having Registered Office at
8-2-502 / 1 / A, JIVI Towers
Road No.7, Banjara Hills,
Hyderabad – 500 034.

2.Veranda Learning Solutions Limited
Represented by Mr.Suresh Kalpathi
Executive Director and Chairman
No.34, Thirumalai Road,
T.Nagar, Chennai – 600 017.



C.R.P. (PD) .Nos. 4324, 4325 & 4329 of 2024

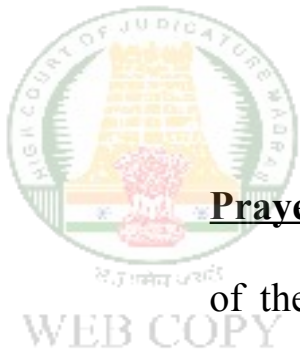
3.The Regional Officer (South)
Central Board of Secondary Education
New No.3, Plot No.1630 – A, “J” Block,
15th Main Road, Anna Nagar West
Chennai – 600 040.

4.The Branch Manager
The Karus Vysya Bank Limited
34/2, 1st Avenue,
Indira Nagar, Adyar,
Chennai – 600 020.

...Respondents in all Petitions

Prayer in C.R.P.No.4324 of 2024: Petition is filed under Article 227 of the Constitution of India to strike off the petition filed by the 1st respondent under Section 9 of the Arbitration and Conciliation Act, 1996, before the Principal District Court, Chengalpattu in O.P.No.245 of 2024.

Prayer in C.R.P.No.4325 of 2024: Petition is filed under Article 227 of the Constitution of India to strike off the petition filed by the 1st respondent under Section 9 of the Arbitration and Conciliation Act, 1996, before the Principal District Court, Chengalpattu in O.P.No.247 of 2024.



Prayer in C.R.P.No.4329 of 2024: Petition is filed under Article 227 of the Constitution of India to strike off the petition filed by the 1st respondent under Section 9 of the Arbitration and Conciliation Act, 1996, before the Principal District Court, Chengalpattu in O.P.No.246 of 2024.

For Petitioner : Mr. Harishankar Mani
(*In all petitions*)

For Respondent 1: Mr. R.Thiyagarajan
(*In all petitions*)

ORDER

These Civil Revision Petitions seeks to struck off the Original Petitions in O.P.Nos.245 to 247 of 2024, on the file of the learned Principal District Judge, Chengalpattu. The aforesaid Original Petitions had been presented invoking the provisions of Section 9 of the Arbitration and Conciliation Act, 1996. There is no dispute in the relationship between the parties.



2. The civil revision petitioner is the lessee and the 1st respondent is the lessor. On account of the fact that the civil revision petitioner allegedly did not pay the rentals as per the lease agreement entered into between the parties on 05.12.2009, dispute arose between them. Both sides agreed that they will nominate their respective Arbitrators but as the Presiding Arbitrator could not be appointed, they did not proceed further. The dispute arose in the 2019. After a lapse of about 5 years, the 1st respondent invoked the provisions of Section 9 of the Arbitration and Conciliation Act and moved the learned Principal District Judge, Chengalpattu, for the relief set forth in the Original Petitions.

3. The learned Principal District Judge, Chengalpattu, was pleased to grant an interim order in two of the Original Petitions filed under Section 9 and issued a notice in the third Original Petition.

4. On being served with the summons, the civil revision petitioner who is the 1st respondent before the learned Principal District Judge, Chengalpattu, has presented the present Civil Revision Petitions.



According to the civil revision petitioner, in terms of arbitration clause that exists between the parties, they had agreed that *the governing law for the parties will be the laws of the Republic of India and the same shall be subject to the exclusive jurisdiction of the competent Courts in Chennai*. This is as per Clause 9 of the said agreement.

5. In terms of Clause 10 too the parties agreed that venue of arbitration shall be at Chennai.

6. The grievance of the civil revision petitioner is that when the parties have agreed to the jurisdictional seat for arbitration as Chennai, moving an application under Section 9 before the learned Principal District Judge, Chengalpattu, is not maintainable. This is the basic and the only plea of Mr.Harishankar Mani.

7. Mr.R.Thiyagarajan, appearing for the 1st respondent / caveator



states that as the property situated within the jurisdiction of the Court in Chengalpattu, his client has moved the proceedings before the learned Principal District Judge, Chengalpattu.

8. I have carefully considered the submissions of both the sides and perused the records.

9. Insofar as the Arbitration and Conciliation Act is concerned, it gives absolute freedom to the parties to select the governing law and the seat of arbitration. Once the seat of arbitration is agreed upon, it is not open to any one of the parties to choose any other jurisdiction for the purpose of invoking Section 9 of the Arbitration and Conciliation Act. The position has been settled by the Supreme Court in ***Indus Mobile Distribution Private Limited Vs. Datawind Innovations Private Limited – 2017 (7) SCC 678.***

10. Therefore, I necessarily have to come to the conclusion that



the learned Principal District Judge, Chengalpattu, had no jurisdiction to entertain the arbitration proceedings.

11. Stopping with this is not going to help either parties, as there is a dispute simmering for over 5 years. The owner of the property pleads that there is a due of Rs.16,51,23,760/-, whereas, the tenant pleads that he has paid a sum of Rs.10,83,52,548/- leaving a paltry sum of Rs.1,50,00,000/- as balance. These are issues which have to be decided by the learned Arbitrator at the time of award.

12. I therefore suggested to the learned counsels on the either side that instead of three member arbitration proceedings, a sole Arbitrator may be appointed for the purpose of resolving the disputes that have arisen between them. Both Mr.Harishankar Mani as well as Mr.R.Thiyagarajan agreed for the same and consented that the Hon'ble Mr. Justice V.Parthiban, Judge of this Court (Retd.), may be appointed as an Arbitrator to resolve the disputes between the petitioner and the 1st respondent.



WEB COPY



C.R.P. (PD) .Nos. 4324, 4325 & 4329 of 2024

13. With the above observation and consent of both the parties,
the following order is passed:

*(i) Thiru. Justice V. Parthiban (Retd.), No. 5069, Z
Block, 12th Street, Anna Nagar (West), Chennai – 600 040,
Mob: 94440 94401, is appointed as an Arbitrator.*

*(ii) The Arbitrator may, after issuing notice to the
parties and upon hearing them, pass an award as
expeditiously as possible.*

*(iii) The learned Arbitrator shall fix his
remuneration and other incidental expenses as per law.*

*(iv) Insofar as the interim relief that is sought for by
the 1st respondent before the learned Principal District*



WEB COPY



C.R.P. (PD) .Nos. 4324, 4325 & 4329 of 2024

Judge, Chengalpattu, is concerned, the same shall be moved before the learned Arbitrator under Section 17 of the Arbitration and Conciliation Act.

(v)The striking of the Original Petitions will not stand in the way of the 1st respondent to workout his remedy before the Arbitrator.

14. With the above observations, the Civil Revision Petition is allowed. The Original Petitions in O.P.Nos.245 to 247 of 2024 on the file of the Principal District Judge, Chengalpattu, is struck off. Consequently, the connected miscellaneous petitions are closed. No costs.

24.10.2024

Index : Yes/No
Internet : Yes/No
kan

To

The Principal District Judge,

9/11



Chengalpattu.

WEB COPY



C.R.P. (PD) .Nos. 4324, 4325 & 4329 of 2024

V.LAKSHMINARAYANAN, J.

kan



WEB COPY



C.R.P. (PD) .Nos. 4324, 4325 & 4329 of 2024

C.R.P. (PD) .No. 4324, 4325 & 4329 of 2024

24.10.2024