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C.R.P.(PD).Nos.4679 & 4681 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.11.2024

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THE HONOURABLE MR. JUSTICE V.LAKSHMINARAYANAN

C.R.P.(PD).Nos.4679 & 4681 of 2024 and
C.M.P.Nos.26175 & 26178 of 2024

C.R.P.(PD).No.4679 of 2024:

- 1.The Union of India,
Rep.by the Chief Secretary,
Government of Puducherry.
- 2.The Chief Engineer,
Public Works Department,
Government of Puducherry.
- 3.The Superintending Engineer,
Circle-II, Public Works Department,
Government of Puducherry.
- 4.The Executive Engineer,
Public Works Department,
Yanam Division, Public Works Department,
Yanam, U.T of Puducherry. ... Petitioners/Judgment Debtors

..Vs..

M/s. High End Quality Construction Pvt Ltd.,
Rep. by its Director Thiru K.Sivakumar,
Plot No.38, Block A3-Sapphire Sea View Villa,
Injambakkam, Chennai – 600 115. ... Respondent/Decree Holder



PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, to direct the Principal District Judge to take on record E.A(SR)No.11909/2024 and dispose the same along with E.A.No.1/2024 in E.P.No.325/2022 within the time frame fixed by this Court before proceeding further with the execution of the award in E.P.No.325/2022.

C.R.P.(PD).No.4681 of 2024:

- 1.The Union of India,
Rep.by the Chief Secretary,
Government of Puducherry.
- 2.The Chief Engineer,
Public Works Department,
Government of Puducherry.
- 3.The Superintending Engineer,
Circle-II, Public Works Department,
Government of Puducherry.
- 4.The Executive Engineer,
Public Works Department,
Mahe Division,
U.T of Puducherry.

... Petitioners/Judgment Debtors

..Vs..

M/s. High End Quality Construction Pvt Ltd.,
Rep. by its Director Thiru K.Sivakumar,
Plot No.38, Block A3-Sapphire Sea View Villa,
Injambakkam, Chennai – 600 115.

... Respondent/Decree Holder



PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, to direct the Principal District Judge to take on record E.A..3/2024 and dispose of E.P.No.324/2022 within the time frame fixed by this Court before proceeding further with the execution of the award dated 07/06/2021 as modified by the award dated 19/07/2021 in Award under Arbitration Agreement No.107M 201.5-20L6 dated 24.02.2024.

For Petitioners in both petitions : Mr.S.Raveekumar,
Government Pleader
Assisted by : Mr.V.Vasanthakumar,
Additional Government Pleader

For Respondent in both petitions: Mr.Adarsh Subramanian

COMMON ORDER

These Civil Revision petitions arises against the orders of the learned Principal District Judge, Puducherry in E.A.(SR).No.11909 of 2024 and E.A.No.3 of 2024 in E.P.Nos.324 & 325 of 2022, respectively.

2. The civil revision petitioners are the Judgment Debtors in the Award passed pursuant to the Arbitration Agreement in 22/ PW/ YNM/ 2017-18 dated 15.06.2017 and Agreement No.107M/2015-16 dated



24.02.2016. The Award came pursuant to the agreements that had been entered into between the parties. One was for improvements of the road from Gurempeta Junction to N.H.216 in Yanam and the other being for River Side Walk Way at Mahe.

3. Challenging the Award, proceedings have been initiated under Section 34 of the Arbitration and Conciliation Act, 1996 in O.P.No.43 of 2022 and O.P.No.51 of 2022. Both pending before the Principal District Judge at Puducherry.

4. As the Award was not kept in abeyance, the respondent initiated E.P.Nos.324 & 325 of 2022 before the learned Principal District Judge. In both the Execution Proceedings, attachment had been ordered. The civil revision petitioners filed E.A(SR)No.11909 of 2024 and E.A.No.3 of 2024 under Order XXI Rule 58 of the Code of Civil Procedure.

5. With respect to E.P.No.324 of 2022, the learned Principal District Judge took on file the Execution Application and numbered it as E.A.No.3



of 2024. However, he kept the Claim Petition filed in E.P.No.325 of 2022 in an unnumbered stage. After having it numbered the Claim Petition, the learned Judge returned the petition, stating as actual attachment had not taken place, the petition is not maintainable. That is to say, as the bailiff had not yet gone to the premises of the Judgment Debtors and had physically attached the property, the petition filed under Order XXI Rule 58 of the Code of Civil Procedure is not maintainable. Hence, these Revisions.

6. When these revisions came up for admission on 15.11.2024, I had requested Mr.S.Raveekumar, the learned Government Pleader for Puducherry, to serve the entire papers on the learned counsel appearing for the Respondent/Decree Holder and posted the matter today (25.11.2024).

7. Mr. Adarsh Subramaniam has entered appearance for the Decree Holder. I heard both.

9. The narration of the facts shows that the learned Judge had entertained a Claim Petition and had also numbered the petition as E.A.No.3



of 2024. He issued notice to the Decree Holder. After having decided to number the petition, he had returned the papers. With respect to the other revision, he did not even number the Claim Petition.

10. The Code of Civil Procedure contemplates a return on Ministerial aspects at the time of numbering the petition. Examples can be, non-payment of court fee, etc. However, having decided to number the petition, I am not in a position to understand, how the learned Judge returned the papers. It is always open to the learned District Judge, to hear the arguments of the Decree Holder and pass orders on the application itself. This would be in line with a view taken by my learned brother ***Mr.Justice.N.Seshasayee*** in ***Selvaraj vs. Koodankulam Nuclear Power Plant India Limited*** in ***(C.R.P.(MD).No.915 etc., batch of 2020) dated 16.07.2021***. The learned Judge had directed that a Court cannot demand matters on the Ministerial side, matters which have to be appropriately addressed on the Judicial side.

11. Hence, the order of the learned Principal District Judge,



Puducherry dated 18.09.2024 and 03.10.2024 are set aside. The learned Principal District Judge shall restore E.A.No.3 of 2024 in E.P.No.324 of 2022 and hear both parties and dispose of the application. Similarly, the learned Principal District Judge shall number E.A.(SR).No.11909 of 2024, issue notice to the Decree Holder, hear the objections, and pass order on the merits of the application.

12. At this stage, Mr.Adarsh Subramanian submits that the Decree Holder is ready to address his submissions in the main Arbitration Proceedings itself.

13. The Arbitration Proceedings, having been initiated in the year 2022, require to be disposed of at an early date. This is especially since a person, who had executed work at least five years ago, is still knocking on the doors of the Court seeking his due. Therefore, the learned Principal District Judge shall hear O.P.No.43 of 2022 and O.P.No.51 of 2022, which both sides agree that the matter is ripe for arguments and dispose of the same on or before 23.01.2025 and submit a report of compliance before this



Court, on or before 27.01.2025.

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14. With the above directions, these Civil Revision Petitions are disposed of. No costs. Consequently, the connected miscellaneous petitions are closed. Call the matter under the caption “for reporting compliance” on 27.01.2025.

25.11.2024

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Index : Yes/No

Internet : Yes/No

Neutral Citation Case: Yes/No

Note to the Registry: The original of the petitions filed by the civil revision petitioners shall be returned to the learned Government pleader after obtaining the usual endorsement.

V.LAKSHMINARAYANAN, J.



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