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OSA (CAD) NO.172 OF 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.01.2024

CORAM:

THE HONOURABLE MR. JUSTICE R.SUBRAMANIAN

AND

THE HONOURABLE MR. JUSTICE R.SAKTHIVEL

OSA (CAD) NO.172 OF 2023

AND

CMP NO.29060 OF 2023

M/s.OMR Developers Private Limited

Rep. By its Authorised Signatory

Mr.K.S.Gajendra Babu

Sri Saisubhodaya Apartments,

No.57/2B, East Coast Road, Thiruvanmiyur,

Chennai – 600 041.

... Appellant

VS.

1.A.S.Sathar

2.Mohammed Riyas

3.Anbazzhagan

... Respondents

PRAYER: Appeal filed under Section 13(1A) of the Commercial Courts Act, 2015 read with Section 37 of the Arbitration and Conciliation Act, 1996, against the order dated 30.10.2023 passed in O.A.No.715 of 2023.



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For Appellant : Mr.K.M.Aasim Shehzad
for Mr.K.Alakendran

For Respondents : Mr.P.Raja

J U D G M E N T

(Judgment of the Court was made by **R.SUBRAMANIAN, J.**)

Challenge in this appeal is to the order passed dismissing the application filed under Section 9 of the Arbitration and Conciliation Act, 1996.

2.The Joint Venture Agreement which forms the basis of the arbitration proceedings shows that it is a Joint Venture Agreement for development of immovable property situate in Karapakkam Village of Tambaram Taluk of Kancheepuram District which is outside the original jurisdiction of this Court.

3.Section 2(e) of the Arbitration and Conciliation Act, 1996 defines “Court” as follows:

“(e) “Court” means—

(i) in the case of an arbitration other than international commercial arbitration, the principal Civil Court of original jurisdiction in a district, and includes the High Court in



exercise of its ordinary original civil jurisdiction, having jurisdiction to decide the questions forming the subject-matter of the arbitration if the same had been the subject-matter of a suit, but does not include any Civil Court of a grade inferior to such principal Civil Court, or any Court of Small Causes;

(ii) in the case of international commercial arbitration, the High Court in exercise of its ordinary original civil jurisdiction, having jurisdiction to decide the questions forming the subject-matter of the arbitration if the same had been the subject-matter of a suit, and in other cases, a High Court having jurisdiction to hear appeals from decrees of courts subordinate to that High Court.”

4.A reading of the above provision would show that an application under Section 9 of the Arbitration and Conciliation Act, 1996, can be entertained only by the Court which has jurisdiction to decide a Suit on the subject matter of arbitration, if it is raised as a civil dispute.

5.It is clear to our mind that this Court will not have the jurisdiction to decide the issues which arise for arbitration or the Section 9 application since the property is not situate within its original jurisdiction. Hence, the very application under Section 9 of the Arbitration and Conciliation Act, 1996, ought not to have been entertained by this Court.

Therefore, while sustaining the conclusion of the Hon'ble Judge dismissing



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the application under Section 9, we set aside all the observations made by the Hon'ble Judge as this Court has no jurisdiction to decide those questions and leave it open to the appellant to seek appropriate legal remedy as he may be advised.

6.The Appeal is therefore dismissed with the above observation. No costs. Consequently, connected civil miscellaneous petition is closed.

[R.S.M., J.]

[R.S.V., J.]

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Internet : Yes

Neutral Citation : No

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