



CRP. PD. Nos.1041 & 1042 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

Reserved on:17.06.2025

Pronounced on:14.07.2025

CORAM

THE HONOURABLE MR.JUSTICE P.B.BALAJI

**CRP. PD. Nos.1041 & 1042 of 2025
and CMP. Nos.6008 & 6010 of 2025**

1.Karpagam
2.Praveen Jeeva
3.Harini

Petitioners in both CRPs

Vs

1.Shankar Karikar
2.Chithra
3.Ashwin Krishnaraj
4.Monish Prakash

Respondents in both CRPs

COMMON PRAYER: This Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the order dated 19.07.2024 in Arb. Appln. Nos.2 & 3 of 2023 in Arb Case No.6 of 2022 passed the Arbitral Tribunal consisting of the Hon'ble Mr.Justice N.Kirubakran (Former Judge, Madras High Court -Sole Arbitrator).

For Petitioners : Mr.I. Abrar Mohamed Abdullah
in both CRPs

For Respondents : Mr.Arun Karthik Mohan
in both CRPs



CRP. PD. Nos.1041 & 1042 of 2025

COMMON ORDER

WEB COPY

These revisions have been preferred by the respondents in an Arbitration Case pending before the Arbitral Tribunal pertaining to a Joint Venture Agreement dated 16.02.2012. The learned Arbitrator, in and by an order dated 19.07.2024, dismissed the Applications filed by the petitioners herein, for impounding the agreement dated 20.06.2019 and to direct the first respondent to pay stamp duty and penalty as per law and to reject the document which is inadmissible in law and also unenforceable.

2. I have heard Mr.I.Abrar Mohamed Abdulla, learned counsel for the petitioners and Mr.Arun Karthik Mohan, learned counsel for the respondents.

3. The learned counsel for the petitioners would submit that the first respondent who is the claimant before the Arbitrator entered into a Joint Venture Agreement with the husband of the first Applicant, father of the Applicants 2 and 3, Mr.V.K.Prakash, who are the revision petitioners herein, for development of the property comprised in R.S. No.149/2,



CRP. PD. Nos.1041 & 1042 of 2025

Patta No.97, measuring about 25,000 sq.ft. which belonged to the said Prakash. In terms of the Joint Venture Agreement, the owner was entitled to 36% of the built up area and the developer was entitled remaining 64%. The parties also agreed on the mode of sharing of three floors and it was agreed that if the 4th floor was constructed, then it would be divided in the ratio 40% to the owner and 60% to the developer.

4. Mr.Abrar Mohamed Abdullah, learned counsel for the petitioners would point out to the subsequent Agreement dated 20.06.2019, which is marked as Annexure 3, where the parties had agreed upon the distribution of flats between themselves. Under the said Agreement, the owner became entitled to 14 flats and builder became entitled to 26 flats. Pending the completion of the project, the said Prakash died and the developer approached the petitioners herein for dealing with 5 unsold flats which were allotted to the share of the developer. As disputes arose between the parties, the developer moved this Court for appointment of an Arbitrator and the matter was referred to Arbitration before the sole Arbitrator, Hon'ble Mr.Justice N.Kirubakaran, Former Judge, Madras High Court.



CRP. PD. Nos.1041 & 1042 of 2025

WEB COPY

5. During the course of cross examination of C.W.1, the claimant/developer, two Interlocutory Applications came to be filed contending that Annexure 3, viz., the subsequent Agreement dated 20.06.2019, under which the flats were distributed between the parties was neither registered nor stamped and the same has to be impounded and the claimant has to pay necessary stamp duty and penalty, as otherwise the document will have to be rejected being inadmissible in evidence.

6. Referring to the said document Annexure 3, Mr.Abrar Mohamed Abdullah would state that neither was the document properly stamped nor was it registered and therefore, the document was clearly inadmissible in law and the document could not have been taken on record by the Arbitral Tribunal. As regards the reliance placed on by the learned Arbitratral Tribunal in the case of *Z. Engineers Construction Private Limited and another V. Bipin Bihari Behera and others*, reported in (2020) 4 SCC 358, the learned counsel for the petitioners would contend that in the said decision, the document was a registered document and therefore the facts of that case could not be applied to the



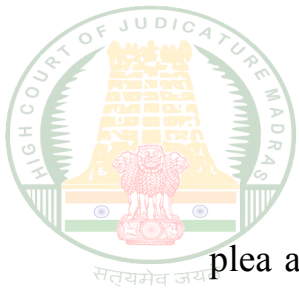
CRP. PD. Nos.1041 & 1042 of 2025

facts of the claim before the Arbitrator.

WEB COPY

7. Further Mr.Abrar, would also rely on the decisions of the Hon'ble Supreme Court in the case of *Nawab Shaquafath Ali Khan and others Vs. Nawab Imdad Jah Bahadur and others*, reported in (2009) 5 SCC 162, where the Hon'ble Supreme Court held that even if there is non availability of revisional jurisdiction, remedy is always available under Articles 226 and 227 of the Constitution of India, which is a supervisory jurisdiction of the High Court, for keeping the Subordinate Courts within the bounds of its jurisdiction.

8. He would also place reliance on the *Saraswathi Bai and three others Vs. N.S. Ramachandran @ Chandra Sah and two others*, reported in 2012 (6) CTC 144, where this Court permitted conversion of a revision petition filed under Article 227 of the Constitution of India as an Appeal. He would also place reliance on *Saroja (deceased) Vs. Vasantha Duraisamy* reported in 2023 (1) CTC 226, where this Court held that the Court has a power to impound a document under Section 33 of the Stamp Act, 1899, when the document is tendered in evidence and



CRP. PD. Nos.1041 & 1042 of 2025

plea as to insufficient stamping is raised at the first instance. He would also rely on the decision of this Court in *Narayana Naicker and others Vs. Kannusamy Naicker (died) and others*, reported in 2019-3-L.W.19, where this Court held that even payment of deficit stamp duty will not cure the defect of non registration in order to make the document inadmissible. The learned counsel, Mr.Abrar, would therefore state that when the parties to the document had agreed upon sharing of the developed area between themselves, such document would necessarily require proper stamping and also registration and unfortunately, the Arbitral Tribunal has rejected the Applications taken out for impounding the documents. He would therefore pray for the revisions being allowed.

9. Per contra, Mr.Arun Karthik Mohan, learned counsel appearing for the respondents would submit that under the Arbitration and Conciliation Act, 1996, the Hon'ble Supreme Court as well as this Court have time and again held that there must be minimal judicial interference, the principle of self imposed restriction being brought into play, insofar as arbitration matters are concerned. He would further state that the



CRP. PD. Nos.1041 & 1042 of 2025

revision itself is not maintainable and it is only an attempt to derail the arbitration proceedings.

10. The learned counsel would rely on decision of the Hon'ble Supreme Court in the case of *SBP & Co Vs. Patel Engineering Limited and another*, reported in (2005) 8 SCC 618; *Devinarayan Housing and Property Development (P) Ltd, Vs. C.R.Gobind*, reported in (2006) SCC Online Mad 971; and the decision of this Court in *M/s.Positive Systems Vs. M/s.Redington (India) Limited*, in CRP. Nos.517 & 549 of 2019 dated 19.07.2019. Placing reliance on the above decisions, Mr.Arun Karthik Mohan, learned counsel for the respondents would state that the High Courts should not interfere with the orders passed by the Arbitral Tribunal during arbitration, invoking powers under Article 226 or 227 of the Constitution of India.

11. I have carefully considered the submissions advanced by the learned counsel on either side. I have also gone through the order of the learned Arbitrator, dismissing these Applications, which are now challenged by way of the above revisions.

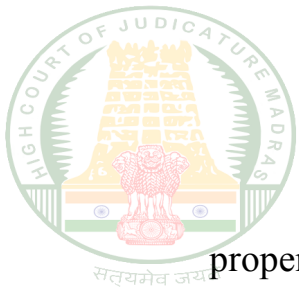


CRP. PD. Nos.1041 & 1042 of 2025

WEB COPY

12. The Joint Venture Agreement originally entered into between the husband of the first petitioner and the father of the petitioners 2 and 3 with the developer is not in dispute. Equally, the second agreement which has been entered into between the parties for the purposes of allocation/distribution of the flats between themselves is also admitted. However, the revision petitioners have taken out an Application to impound the said document on the ground that it is insufficiently stamped and also not registered. The learned Arbitral Tribunal held that only at the time of making the final award, the Arbitral Tribunal could decide as to whether Ex.C3 would be admissible or not, for which the parties had to lead evidence and whereupon the issue of whether the said document is admissible or not and whether requires proper stamping and registration can be decided. The Tribunal has also held that the petitioners would have the right to impeach the document in cross examination also.

13. According to the learned counsel for the petitioners, this document under which, the parties viz., the owner and the developer had agreed upon a mode of distribution of the constructed flats has to be



CRP. PD. Nos.1041 & 1042 of 2025

WEB COPY

properly stamped and also registered. It is the contention of the respondent/developer that the document is neither insufficiently stamped nor requires registration as it is only evidencing the respective entitlements of the parties, which is already dealt with under Ex.C2, the original Joint Venture Agreement which has also been submitted to Real Estate Regulatory Authority (RERA) for approval and therefore, no interest or right is created under the said Ex.C3.

14. Firstly, the learned Arbitrator has not foreclosed the rights of the revision petitioners. The learned Arbitrator has only postponed the decision to decide the admissibility of the said documents after the parties lead evidence. Therefore from this angle, it cannot be said that the revision petitioners have been put to any serious prejudice. Moreover, as rightly pointed out by the learned Arbitrator, the petitioners can always elaborately cross examine the developer/claimant on the said document itself and they can even be successful in impeaching the document in cross examination.

15. This Court has to keep in mind that these revisions have been



CRP. PD. Nos.1041 & 1042 of 2025

preferred under Article 227 of the Constitution of India. The Hon'ble Supreme Court in the case of *SBP & Co*, (referred herein supra) held that considering the scheme of the Arbitration and Conciliation Act, 1996 and the same being a creature of a contract between parties, all orders passed by the Arbitral Tribunal cannot be capable of being corrected by the High Court under Article 226 or 227 of the Consitution of India and that such intervention by the High Courts is not even permissible. The Hon'ble Supreme Court further held that once Arbitration has commenced, the parties have to wait until the award is pronounced, unless a right of appeal is available to the aggrieved party under Section 37 of the Act, even at an earlier stage. This Court in *Devinarayan Housing and Property Devlopment (P) Ltd's* case (referred herein supra), where a similar issue of stamp duty and registration cropped up, following the ratio of the Hon'ble Surpeme Court in *SBP & Co's* case, held that the revision was not maintainable.

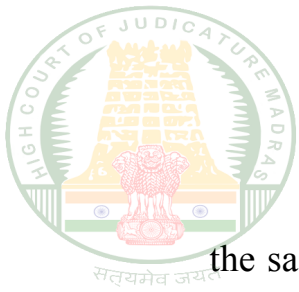
16. In *M/s.Positive System's* case (referred herein supra), this Court again followed the ratio of the Hon'ble Supreme Court in *SBP & Co's* case and held that the object of the Act is restricting the scope of judicial



CRP. PD. Nos.1041 & 1042 of 2025

review against the orders passed by the Arbitral Tribunal and held that the revision under Article 227 of the Constitution of India was not maintainable, challenging the dismissal of two Interlocutory Applications seeking directions to the claimant as also for production of certain original documents. No doubt, the power of this Court is wide enough to even convert a revision into a statutory appeal as laid down by this Court in *Saraswathi Bai's* case (referred herein supra). However, this decision cannot be applied to the facts of the present case in view of the scheme of the Arbitration and Conciliation Act.

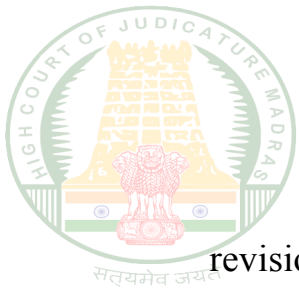
17. In *Nawab Shaquafath Ali Khan's* case (referred herein supra), the Hon'ble Supreme Court held that even if revisional jurisdiction cannot be invoked under Section 115 of the Code of Civil Procedure, 1908, remedy can still be had in terms of Article 226 & 227 of the Constitution of India. However, the said decision was on the facts, and also arising out of a suit which was instituted before the Civil Court. However, in the present case, challenge is to two Interlocutory Orders passed under the Arbitration and Conciliation Act, in the course of arbitral proceedings, before the sole Arbitrator. The ratio laid down in



CRP. PD. Nos.1041 & 1042 of 2025

the said case *Nawab Shaquafath Ali Khan's case* (referred herein supra), therefore cannot apply to the facts of the present case. Insofar as the decisions of this Court in *Narayana Naicker and Saroja (Deceased)* cases, (referred herein supra) with regard to the document being inadmissible and requiring payment of deficit stamp duty is concerned, the learned Arbitrator has found that the parties will have to let in evidence in connection with the agreement between the parties viz., the developer and the original owner and only depending on the evidence adduced, the Arbitral Tribunal would be in a position to ascertain whether the document is admissible or inadmissible or whether it requires making up of deficit Court fee.

18. In the light of the above, I do not find these revisions challenging the said orders even being maintainable under Article 227 of the Constitution of India, as held by the Hon'ble Supreme Court in *SBP and Co's case*, (referred herein supra). The very object with which, the Arbitration and Conciliation Act has been enacted is to minimise judicial intervention, especially while the matter is in the process of being arbitrated upon. Admittedly, the orders that are now challenged in these



CRP. PD. Nos.1041 & 1042 of 2025

revisions are not appealable under Section 37 of Arbitration and Conciliation Act as well and therefore, though the petitioners may be aggrieved by the said interlocutory orders, it shall not be permissible for them to challenge the same by way of revisions under Article 227 of the Constitution of India. In any event, the learned Arbitrator has only postponed the decision on the document in question being inadmissible or not and I do not see how the petitioners are prejudiced in this regard.

19. In the light of the settled legal position which is discussed herein above, I do not find these revisions being maintainable under Article 227 of Constitution of India. In fine, these Civil Revision Petitions are dismissed. Connected Miscellaneous Petitions are also dismissed. No costs.

14.07.2025

rkp

Index : Yes

Internet : Yes

To:

Mr. Justice N. Kirubakaran
(Former Judge, Madras High Court),
Sole Arbitrator, Arbitral Tribunal, Chennai.



WEB COPY



CRP. PD. Nos.1041 & 1042 of 2025

P.B.BALAJI, J.,

rkp

Pre-delivery order in
CRP. PD. Nos.1041 & 1042 of 2025
and CMP. Nos.6008 & 6010 of 2025

14.07.2025