



C.R..P.(PD)(MD).No.586 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 04.04.2025

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P(PD)(MD)No.586 of 2025

and

C.M.P(MD) No.3206 of 2025

Sakthi Finance Limited a
Company incorporated under
Companies Act having its Registered
Office at Door No.62,
Dr.Nanjappa Road,
Coimbatore and its Branch Office at
No.93/1A, Sarguna Veethi,
Chettikulam Junction,
Nagercovil, Kanyakumari District,
Represented by its Branch Manager.

... Petitioner/
Petitioner/Defendant

Vs.

Abin Kumar

... Respondent/
Respondent/Plaintiff

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, to call for the records relating to fair and decreetal order dated 19.10.2024 passed in I.A.No.5 of 2023 in O.S.No.132/2023 on the file of the I Additional District Court, Kuzhithurai and set aside the same.

For Petitioner : Mr.R.Sundar Srinivasan
For Respondent : No appearance



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ORDER

The defendant in O.S.No.132 of 2023 on the file of the I Additional District Court, Kuzhithurai, has filed the present Civil Revision Petition challenging the dismissal of the order passed under Section 8 of the Arbitration and Conciliation Act.

2. The petitioner herein, who is a financier, has entered into a Hire Purchase Agreement with the respondent/plaintiff. In view of the default in repayment there was an attempt made on the part of the defendant to seize the vehicle. The plaintiff has filed the above said suit for the relief of permanent injunction restraining the defendant from taking possession of the vehicle unless by due process of law.

3. When the suit was pending, the defendant had filed Arb.OP(COM.DIV) No.425 of 2023 before the High Court for appointment of a sole Arbitrator to adjudicate upon the differences and dispute between the parties. The said application was allowed on 30.11.2023, appointing Mr.Arun Kurian Joseph, Advocate, Chennai, as a sole Arbitrator.



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4. In view of the above said order passed by the High Court, the plaintiff had filed I.A.No.5 of 2023 under Section 8 of the Arbitration and Conciliation Act, to refer the parties to the arbitrator who was already appointed by the High Court. The trial Court, after recording the fact that the arbitrator has already been appointed has proceeded to dismiss the application as infructuous. Challenging the same, the present Civil Revision Petition has been filed.

5. According to the learned counsel appearing for the revision petitioner, as per Clause 16 of the Hire Purchase Agreement, in case, if any dispute arises between the parties the same has to be referred to the sole arbitrator to be appointed by the defendant. However, when the dispute arise, the defendant has approached the High Court in Arb.OP(COM.DIV) No.425 of 2023 for appointment of an Arbitrator. After appointment of the Arbitrator by the High Court, the civil Court has no jurisdiction whatsoever to continue with the proceedings especially when the issue is covered by the Arbitration Agreement.



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6. Though notice was served upon the respondent/plaintiff and his name is also been printed in the cause list, he has not chosen to appear either in person or through his counsel. Hence, this Court proceeds to dispose of the revision on the basis of submission made on the side of the learned counsel appearing for the revision petitioner.

7. The revision petitioner/defendant had filed I.A.No.5 of 2023 under Section 8 of the Arbitration and Conciliation Act along with a application copy of the Arbitration Agreement. It was also brought to the notice of the trial Court, the High Court has already appointed the sole arbitrator. In such circumstances, the application should have been allowed by the trial Court and it cannot be dismissed as infructuous. As per Section 8 of the Arbitration and Conciliation Act, it is mandatory on the part of the Court to refer the parties to arbitration, in case, if there is a legally valid arbitration agreement.

8. In view of the above said facts the order impugned in the revision petition is set aside and I.A.No.5 of 2023 stands allowed and the parties are referred to the sole arbitrator appointed by the Hon'ble High Court on 30.11.2023.



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9. With the above said observation, this Civil Revision Petition is allowed. The consequent plaint in O.S.No.132 of 2023 on the file of the I Additional District Munsif Court, Kuzhithurai stands rejected. There shall be no order as to costs. Consequently connected Miscellaneous Petition stands closed.

04.04.2025

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
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To

1. The I Additional District Munsif Court,
Kuzhithurai
2. The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



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R.VIJAYAKUMAR,J.

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