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CMA No.2398 of 2022



IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED: 18-03-2026**

CORAM

**THE HONOURABLE MR JUSTICE P.VELMURUGAN  
AND  
THE HONOURABLE MRS.JUSTICE K.GOVINDARAJAN  
THILAKAVADI**

**CMA No.2398 of 2022**

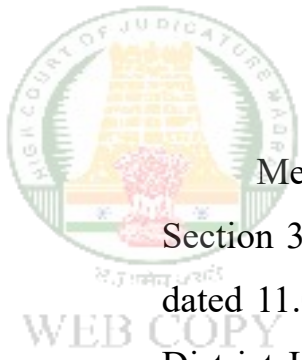
M/s Royal Shelter  
A Partnership firm  
Rep.by its Managing Partner  
Mr.P.Ravichandran  
T2, Royal Srobam Apartment  
Lawsons Road, Cantonment  
Tiruchirapalli 620 001

Appellant

Vs

1. Mr.Senthil Kumar  
S/o.Mr.Late.V.C.Ramaswamy
2. Ms.S.Gaanapriya  
D/o.Mr.R.Senthilkumar
3. Mrs.Umarani  
W/o.Mr.M.Jagadeesan
4. Mr.J.A.Gireman  
S/o.M.Jagadeesan
5. Mr.S.J.Grish Runnesh  
S/o.Mr.M.Jagadeesan
6. Mr.R.Suresh Kumar  
S/o.Mr.C.V.Ramasamy

Respondents



Memorandum of Grounds of Civil Miscellaneous Appeal filed under Section 37 of the Arbitration and Conciliation Act, 1996 to set aside the order dated 11.07.2022 in A.O.P.No.253 of 2018 on the file of the learned Principal District Judge, Coimbatore with regard to the partial modification setting aside the interest awarded to the appellant herein and restore the Sole Arbitrator's Award as passed by the Sole Arbitrator Mr.R.Dhandapani dated 24.09.2018 and 05.10.2018.

For Appellant: Mr.S.Shyam Kumar

For Respondents: Mr.T.Thiyagarajan  
Caveator for R1 to R6

### **JUDGMENT**

**(Judgment of the Court was made by P.Velmurugan J.)**

Aggrieved by the order dated 11.07.2022 passed by the learned Principal District Judge, Coimbatore in A.O.P.No.253 of 2018, the Promoter/Claimant has filed the present civil miscellaneous appeal before this Court.

2. The appellant is the Claimant before the sole Arbitrator. The appellant/Promoter laid the claim petition in Arb Case No.4 of 2015 before the sole Arbitrator with the case that the respondents/land owners entered into a Joint Development Agreement with the promoter on 21.06.2012 for development of the landed property comprised in S.F.No.61 of Vadavalli Village to an extent of 1.02 acres situated in three blocks viz., 42 cents, 14 cents and 46 cents respectively as a multi-storeyed apartment and commercial building. As



per the agreement, the Promoter is entitled for 60% of the constructed area and the owners are entitled for 40% of the constructed area. In compliance of the agreement, the Promoter paid a refundable performance guarantee money/advance of Rs.1,05,00,000/- (Rupees One Crore Five Lakhs only) to the respondents and agreed to pay the balance of Rs.15,00,000/- after obtaining the building approval. As per Clause 6 of the Development Agreement, the performance guarantee money is refundable without interest. Since the project could not be completed due to variations in the extent, the Promoter sought for refund of the advance money along with interest. Subsequently, due to disputes that arose between the parties, the Promoter invoked the arbitration clause for appointment of an Arbitrator in the matter. The learned Arbitrator, upon entering reference and after hearing the parties, passed an award directing the land owners to refund the performance guarantee money/advance of Rs.1,05,00,000/- to the Promoter with interest at the rate of 12% per annum from 01.11.2014 till the date of payment. Until such payment is made, the Promoter to have first charge over the property mentioned in Schedule A of the development agreement dated 21.06.2012.

3. Aggrieved by the award so far as the interest portion is concerned, the respondents filed the Arb O.P.No.253 of 2018 before the learned Principal District Judge, Coimbatore under Section 34 of the Arbitration and Conciliation



Act taking a specific ground that the award of interest is contrary to the very terms of the agreement. The learned Principal District Judge, Coimbatore, after hearing the parties and taking into account clause 6 of the development agreement waiving interest, has set aside the award of the Arbitrator so far as the interest portion is concerned and confirmed the award as to the other issues, by the order dated 11.07.2022. Challenging the said order, the appellant is before this Court.

4. The learned counsel appearing on behalf of the appellant would submit that when the respondents/land owners have frustrated the Development Agreement and breached the very terms of the agreement after receiving the advance of Rs.1,05,00,000/- from the appellant/Promoter and without rectifying the shortfall in the extent as pointed out by the appellant and without providing the correct sub division FMB sketch, as a result of which the appellant lost a considerable amount, the appellant is entitled to the interest as awarded by the learned Arbitrator. However, the learned Principal District Judge, Coimbatore has failed to consider the facts and has erroneously set aside the award passed by the sole Arbitrator. The learned counsel also relied upon the dissenting view expressed by one of the Hon'ble Judges constituting the Full Bench answering the reference in the case of *Gayatri Balasamy v. M/s ISG Novasoft Technologies Limited, 2025 INSC 605* in support of his contentions and sought for allowing



the appeal.

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5. Per contra, the learned counsel appearing on behalf of the respondents, taking us through clause 6 of the Development Agreement dated 21.06.2012, vehemently contended that when there is a specific bar under the agreement that the advance amount is refundable without interest, the appellant is not entitled for any interest. The learned counsel would further submit that the learned Arbitrator cannot traverse beyond the express terms of the arbitration agreement entered into between the parties while passing the award. Therefore, the learned Principal District Judge, Coimbatore, invoking Section 34, has rightly set aside the award so far as interest portion is concerned and this Court, while invoking Section 37, cannot interfere with the impugned order and traverse beyond the express bar contained in the very agreement that the advance money is refundable without any interest. The learned counsel also relied upon the judgments of the Supreme Court in the case of *Union of India and others v. Larsen & Tubro Limited*, 2026 SCC OnLine SC 327 and in the case of *Union of India v. Manraj Enterprises*, (2022) 2 SCC 331 as well in *Jaiprakash Associates Limited through its Director v. Tehri Hydro Development Corporation (India) Limited through its Director*, (2019) 7 SCC 786 in support of his contentions.

6. We have considered the submissions made by the learned counsel on



either side and perused the materials available on record.

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7. It is not in dispute that a Development Agreement was entered into between the parties on 21.06.2012 with specific terms and clause 6 *inter alia* reads as under:-

“6. The said amount of Rs.1,20,00,000/- (Rupees One Crore Twenty Lakhs only) is refundable without interest. The Owners this day has handed over vacant possession of the land with a General Power of Attorney executed by the Owners in favour of M/s Royal Shelter. The Owners have handed over the Xerox copy of the documents to the Promoter.”

8. A perusal of the award passed by the learned Arbitrator shows that the learned Arbitrator, after considering the above clause, held that the Promoter is entitled to the refund of the performance guarantee money/advance of Rs.1,05,00,000/- from the land owners and rejected their claim for award of interest. However, the learned Arbitrator has erroneously taken into account the indemnity clause contained in clause 42 of the Development Agreement and chose to award interest to the Promoter. When there is an express bar in the agreement that the performance guarantee money is refundable without any interest, the learned Arbitrator ought not to have traversed beyond the terms



agreed between the parties in the agreement. Therefore, the learned Principal District Judge, Coimbatore, considering the specific bar under clause 6, while invoking Section 34 of the Arbitration and Conciliation Act, has rightly set aside the interest portion alone. This Court, while invoking Section 37 of the Arbitration and Conciliation Act, cannot traverse beyond the scope of Section 34 when the arbitration clause itself clearly states that the performance guarantee money should be refunded without any interest.

9. Recently the Hon'ble Supreme Court in the case of *Union of India and others v. Larsen & Tubro Limited (L&T)*, 2026 SCC OnLine SC 327, has held that where the contract expressly bars interest, the Arbitral Tribunal cannot award interest even under the guise of compensation. It was further noted that the Arbitral Tribunal itself had rejected a claim for pendente lite interest in one part of the award, acknowledging the contractual prohibition. When the Hon'ble Full Bench of the Supreme Court, while answering the reference through majority in *Gayatri Balasamy*, has held that the Court has a limited power under Sections 34 and 37 of the 1996 Act to modify the arbitral award inter alia by severing the "invalid" portion from the "valid" portion of the award, this Court will not be justified in accepting the dissenting view relied upon by the appellant's counsel.



10. In the light of the above, this Court does not find any reason to interfere with the impugned order passed by the learned Principal District Judge, Coimbatore in A.O.P.No.253 of 2018 dated 11.07.2022. Accordingly, the civil miscellaneous appeal stands dismissed. No order as to costs.

**(P.VELMURUGAN J.) (K.GOVINDARAJAN THILAKAVADI J.)**  
**18-03-2026**

Index: Yes/No  
Speaking/Non-speaking order  
Internet: Yes  
Neutral Citation: Yes/No

ss

To

1. The Principal District Judge  
Coimbatore



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