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C.M.A.No.367 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **16.04.2026**

CORAM

THE HONOURABLE MR.JUSTICE **P.VELMURUGAN**

and

THE HONOURABLE MRS.JUSTICE **K.GOVINDARAJAN THILAKAVADI**

C.M.A.No.367 of 2023

and

C.M.P.No.3102 of 2023

VLCC Health Care Limited

M-14, Greater Kailash -II

Commercial Complex

New Delhi – 110 048

and Corporate Office at :

Plot No.64, HSIIDC, Sector – 18

Maruti Industrial Area,Gurgaon – 122 015.

... Appellant

Vs

1. Veeram Raja

2. Shanthi Raja

1st and 2nd respondents represented by

Power of Attorney Mr.P.Nityanandam.

3. S.A.Sriramulu

... Respondents



Prayer: Civil Miscellaneous Appeal filed under Section 37 of the Arbitration and Conciliation Act, 1996,

(a) to set aside the order dated 12.10.2022 in Arb.O.P.No.209 of 2015 passed by the Principal District Judge, Coimbatore, confirming the Award of Rs.23,39,000/- (Rupees Twenty Three Lakhs and Thirty Nine Thousand only) and interest @ 18% on Rs.18,89,000/- (Rupees Eighteen Lakhs and Eighty Nine Thousand only) from 01.02.2012 until the date of payment, passed by the learned Sole Arbitrator in Arbitration Case No.5 of 2014 dated 21.02.2015.

(b) direct the respondent to pay the costs.

For Appellant(s): Mr.S.Kamalakaran
for Ms.Jayasudha

For Respondent(s): Mrs.AL.Gandhimathi
Senior Counsel assisted by
Mrs.R.Priyadharsini
for R1 and R2
R3 – Sole Arbitrator

J U D G M E N T

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

The present Civil Miscellaneous Appeal is directed against the order dated 12.10.2022 passed in Arb.O.P.No.209 of 2015 by the Principal District Judge, Coimbatore, whereby the Arbitral Award dated 21.02.2015 made in Arbitration Case No.5 of 2014 by the learned Sole Arbitrator was confirmed, awarding a sum of Rs.18,89,000/- (Rupees Eighteen Lakhs and Eighty Nine



Thousand only) together with interest at the rate of 18% per annum from 01.02.2012 till the date of payment, and costs.

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2. The brief facts, in a nutshell, are as follows:

(i) The appellant, a Company incorporated under the provisions of the Companies Act, 1956, and engaged in the business of operating fitness centres/institutions and sale of healthcare products, entered into a registered lease agreement dated 22.08.2008 with respondents 1 and 2 in respect of premises admeasuring 2600 sq.ft., situated at D.No.339/2A, Nava India Road, Peelamedu, Coimbatore. The lease was for a period of nine years, stipulating a monthly rent of Rs.45,000/- for the first three years, with an escalation of 15% for the succeeding three years and 18% for the final three years. An interest-free security deposit of Rs.4,50,000/- was paid by the appellant.

(ii) The appellant complied with the terms of the lease up to June 2010. Thereafter, owing to business exigencies, the appellant issued a termination notice dated 01.07.2010, calling upon respondents 1 and 2 to take over possession of the premises on 09.07.2010, and sought refund of the balance security deposit of Rs.3,15,000/-, after adjustment of rent in terms of Clause 14 of the lease agreement. Upon resumption of possession, respondents 1 and 2 issued a notice dated 12.08.2010 claiming arrears of rent and damages to the tune of Rs.17,48,000/- based on an engineer's report, followed by a subsequent



notice dated 31.08.2010 revising the claim to Rs.14,87,000/- after adjusting the security deposit. The appellant refuted the said claim by replies dated 23.08.2010 and 14.09.2010, respectively. Thereafter, respondents 1 and 2 initiated proceedings in A.O.P.No.13 of 2011 before the District Court, Coimbatore invoking Section 9 of the Arbitration and Conciliation Act, 1996 [hereinafter referred to as 'the A & C Act, 1996' for brevity], pursuant to which an Advocate Commissioner was appointed to inspect the subject premises along with a private engineer. Subsequently, arbitration was invoked by notice dated 22.02.2011, and in O.P.No.436 of 2012, this Court appointed the third respondent herein as the Sole Arbitrator to adjudicate the disputes arising out of the lease agreement dated 22.08.2008.

(iii) The learned Sole Arbitrator entered upon reference and constituted the Arbitral Tribunal on 01.08.2014. While so, the appellant had approached this Court by filing a petition seeking substitution of the Arbitrator. Notwithstanding the pendency of the said proceedings, the learned Sole Arbitrator proceeded with the Arbitral proceedings and ultimately passed an ex-parte Award dated 21.02.2015 in Arbitration Case No.5 of 2014. Challenging the said Award, the appellant filed an application under Section 34 of the A & C Act, 1996 before the learned Principal District Judge, Coimbatore, which came to be dismissed by order dated 12.10.2022. Aggrieved thereby, the present appeal has been preferred by the appellant.



3. Mr.S.Kamalakannan, learned counsel representing Ms.Jayasudha, counsel on record for the appellant contended that under Clause 7(e) of the registered lease agreement dated 22.08.2008, the lessors were under an obligation to provide additional infrastructure and amenities for the effective use of the premises by the lessee. It was submitted that the appellant, having carried out certain alterations in consonance with the said Clause, occupied the premises and thereafter, vacated the same upon issuance of the requisite two months' notice under Clause 14 of the agreement, handing over possession along with keys, which were duly received by respondents 1 and 2.

4. The learned counsel for the appellant further contended that the Arbitral proceedings were conducted ex-parte in violation of the principles of natural justice, as there was no proper service of notice. It was submitted that the notice was served only at the Regional Office of the appellant and not at its Registered Office, contrary to the mandate of the Companies Act. It was urged that the learned Sole Arbitrator proceeded with the matter without ensuring due and proper service, thereby vitiating the entire proceedings. Further, the notice dated 12.01.2011 issued by the Advocate Commissioner, appointed in the proceedings under Section 9 of the A & C Act, 1996, was communicated only through a telegram without signature, which would not constitute valid service in the eye of law. The learned counsel further submitted that the learned Sole



Arbitrator's findings are vitiated by perversity, insofar as the Award relied exclusively on the legal notice dated 31.08.2010 issued by respondents 1 and 2 and the report of a private civil engineer engaged by them, without any independent verification or corroboration. It was further contended that both the Arbitral proceedings and the inspection by the Advocate Commissioner were conducted ex-parte, without affording sufficient opportunity to the appellant. The inspection by the Advocate Commissioner was carried out with the assistance of the very same private engineer engaged by respondents 1 and 2, thereby rendering the process biased and procedurally defective.

5. The learned counsel further submitted that the Sole Arbitrator failed to consider the appellant's replies dated 23.08.2010 and 14.09.2010, wherein the allegations of structural alterations were specifically denied, thereby resulting in a total non-application of mind. It was also contended that respondents 1 and 2 had not produced the original approved building plan, either at the time of execution of the lease agreement or during the proceedings before the learned Sole Arbitrator. In the absence of such foundational evidence, the allegations of structural alterations or damages remained unsubstantiated and could not have been legally established. Therefore the claim for damages was wholly unsustainable and that the Award traversed beyond the scope of the lease agreement. Therefore, the Arbitral Award suffers from perversity and patent



illegality, being contrary to public policy. The learned Principal District Judge, while dismissing the petition under Section 34 of the A & C Act, 1996, failed to advert to the limited scope of judicial review under the Act and merely affirmed the findings of the learned Sole Arbitrator without independent consideration. Hence, the present appeal is maintainable.

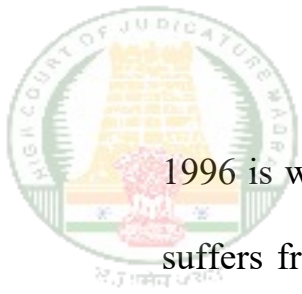
6. Mrs.AL.Gandhimathi, learned Senior Counsel appearing for respondents 1 and 2 contended that in terms of Clause 7(e) of the lease agreement, the lessee was liable for damages, including those relating to electricity and structural alterations, which could be adjusted against the refundable security deposit. It was submitted that the appellant had modified the building structure without authorization and removed fixtures in a careless manner, thereby causing extensive damage to the property, for which the appellant is liable. It was contended that the appellant, though contractually bound under the agreement to occupy the premises for a period of nine years, vacated the same within two years without any valid cause, thereby committing breach of the contractual obligations.

7. The learned Senior Counsel further submitted that, upon the appellant vacating the premises, respondents 1 and 2 engaged a qualified engineer, who inspected the premises, assessed the damages and submitted a report.



Thereafter, an Advocate Commissioner, duly appointed, also inspected the premises after issuing notice to the appellant and submitted his report assessing the damages. The arbitration was thereafter invoked strictly in accordance with the terms of the agreement. It was further contended that notice of the Arbitral proceedings was duly served on the appellant, and that the Sole Arbitrator, upon being satisfied as to such service and the opportunity afforded to the appellant, proceeded with the matter. Despite having knowledge of the proceedings, the appellant deliberately evaded from participation until the passing of the Award. Even after admitting receipt of the telegram notice issued by the Advocate Commissioner, the appellant neither filed objections to the Commissioner's report, nor chose to participate in the inspection. Hence, it was submitted that the appellant cannot now challenge the validity of the Arbitral proceedings. The learned Senior Counsel further contended that the grounds urged by the appellant do not fall within the narrow scope of Section 34 of the A & C Act, 1996. It was submitted that the Principal District Judge, on a proper appreciation of the materials on record, has rightly dismissed the petition by assigning cogent and valid reasons, warranting no interference in the present appeal.

8. The learned Senior Counsel further submitted that the scope of interference with an Arbitral Award under Sections 34 and 37 of the A & C Act,



1996 is well settled and lies within narrow confines, namely, where the Award suffers from patent illegality or perversity. Placing reliance on the decision of the Hon'ble Supreme Court in ***Gayatri Balasamy Vs. ISG Novasoft Technologies Limited*** reported in (2025) 7 SCC, it was contended that where an Arbitral Award comprises distinct and severable components, the Court, in exercise of its limited jurisdiction under Section 34 of the A & C Act, 1996, is not precluded from setting aside or modifying only that part of the Award which is found to be legally untenable, while sustaining the remainder which is otherwise valid and enforceable. Thus, it was submitted that the power to set aside an Award would include the power to partially set aside and sever the unsustainable portions thereof.

9. Applying the said principle, it was urged that even assuming this Court is inclined to interfere with the Award, such interference ought to be confined only to the component relating to rental loss for a period of 16 months, if found unsustainable. Insofar as the Award relating to damages is concerned, the same, having been duly adjudicated on the basis of the materials on record and not having been specifically assailed in the Arbitral proceedings, warrants no interference and is liable to be sustained.

10. We have heard the submission made by the learned counsel on either side and perused the materials available on record.



11. The relationship of the parties as lessee and lessors under the registered lease agreement dated 22.08.2008 is undisputed. It is also admitted that the appellant occupied the premises for about two years and thereafter vacated the same upon issuance of two months' notice, which was accepted and possession was taken over by respondents 1 and 2. Further, the materials on record establish that Arbitral proceedings were duly initiated in terms of the arbitration clause. Notice of arbitration, as well as notice issued by the Commissioner, was duly served on the appellant. The appellant, having admittedly received such communications, was fully aware of the proceedings. The objection regarding service at the Regional Office, in the absence of any demonstrated prejudice, does not vitiate the proceedings. Despite having knowledge, the appellant failed to participate in the Arbitral proceedings, filed objections, or adduce evidence. Having chosen to remain absent, the appellant cannot subsequently raise factual disputes or seek re-appreciation of evidence in proceedings under Section 34 of the A & C Act, 1996, which is impermissible in law. The finding of the learned Principal District Judge, that sufficient opportunity was afforded is therefore justified.

12. It is a settled principle that interference with an Arbitral award under Sections 34 and 37 of the A & C Act, 1996 is confined to cases of patent



illegality, perversity, or contravention of public policy, and does not extend to re-appreciation of evidence or substitution of the Court's view on facts.

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13. On perusal of the Award, it is seen that three claims were admitted by the Sole Arbitrator at the time of passing Award (i) Rs.14,84,000/- towards damages (ii) Rs.1,35,000/- towards arrears of rent and (iii) Rs.7,20,000/- towards rental loss. Insofar as the claims for damages and arrears of rent are concerned, they are based on appreciation of evidence and do not suffer from perversity, patent illegality or attracting the limited grounds of interference. However, insofar as the Award towards "Rental Loss" for a sum of Rs.7,20,000/- is concerned, it is an admitted fact that possession of the premises had already been handed over and accepted by respondents 1 and 2. In the absence of any finding that possession was withheld, the grant of rental loss for the subsequent period is unsustainable. The said component of the Award is therefore vitiated by patent illegality and is liable to be set aside.

14. In view of the above settled principle and its application to the facts of the case, this Court finds that interference is warranted only to the limited extent of the award under the head "Rental Loss", while the remaining components of the Award merit affirmation.



15. In the result, the Civil Miscellaneous Appeal is partly allowed. The Award insofar as it relates to “Rental Loss” is set aside. The Award under the heads “Damages” and “Arrears of Rent” is confirmed. There shall be no order as to costs. Consequently, connected miscellaneous petition stands closed.

(P.V.,J.) (K.G.T.,J.)

16.04.2026

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

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To

1. The Principal District Judge,
Coimbatore.
2. The Section Officer,
V.R.Section, High Court, Madras.



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C.M.A.No.367 of 2



P.VELMURUGAN, J.,

and

K.GOVINDARAJAN THILAKAVADI, J.,

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