

UPLOADED ON 06-06-2026

IN THE COURT OF ADDITIONAL COMMERCIAL COURT, EGMORE, CHENNAI

Present: Thiru. L.Robert Kennedy Ramesh., M.L.,

District Judge, Additional Commercial Court,

Dated this 06th day of June 2026, Saturday

I.A.No:04/2026 in C.O.S.No:114/2026

1. Sharan Suresh,

S/o. J. Suresh.

2. Sandhiya,

D/o. J. Suresh.

3. Suresh Jayavel

S/o. Late. D. Jayavel

4. Lakshmi

W/o. Suresh Jayavel

All are residing at

No. 1, Pitty Munusamy Street,

Old Washermenpet,

Chennai – 600 021.

... Petitioners/Defendants

(Vs)

1. Mrs. D. Hemavathy,
W/o. Chengalvarayan Doddi

2. Karthikeyan Doddi Chengalvarayan,
S/o. Chengalvarayan Doddi

Both are residing at:

No. 76, Basuvayan Street,
Old Washermenpet,
Chennai – 600 021.

... Respondents/Plaintiffs

This petition is coming on this day for final hearing on 01-06-2026 before me in the presence of M/s. D.T. Janardhanon and E. Venkatesan, learned counsels for the petitioners/defendants and M/s. M.Sivavarthanan, T.Senthilkumar and S.Jothilakshmi, learned counsels for the respondents/plaintiffs and upon perusing the documents and hearing the arguments of both sides and having stood over for consideration till this day and this court today doth deliver the following:

ORDER

This petition has been filed under Section 8 of the Arbitration and Conciliation Act, 1996 Read With under Section 151 of CPC to refer the parties to arbitration in accordance with arbitration agreement dated 16-09-2021.

The gist of the petition filed by the Petitioners/Defendants :-

1. It is pertinent to note that for the purpose of the construction of Schedule – B property, both the petitioners/defendants and respondents/plaintiffs entered into

Construction Agreement on 16-09-2021. In the Agreement for Construction dated 16-09-2021 there is a specific Clause (18) for Arbitration regarding the dispute arose between them. If the dispute arose between the plaintiffs and defendants, the Arbitrator will have to be appointed by both of them and submit their claim before the Arbitrator proceedings, so the plaint presented before this court is not at all maintainable either in law or facts. At the time entering into the sale agreement the respondents/plaintiffs had paid a sum of Rs.1,00,000/- and thereafter they paid a sum of Rs.25,00,000/- by RTGS. As such as on date they had totally paid Rs.26,00,000/-. But the claiming of Rs.63,90,515/- and claiming of unliquidated damages of Rs.25,00,000/- does not arise at all. It is wonder how the respondents/plaintiffs claim such a huge sum of Rs.63,90,515/- since they had paid only Rs.26,00,000/-. Since the respondents/plaintiffs are delay in paying the amounts, the construction of flat is delayed. Hence the petitioners/defendants have to claim liquidated damages from them. It is true as per the terms of the sale agreement dated 01-09-2021, we had agreed to complete the construction and sell the schedule-B property within six months from the date of agreement. But it is only the respondents/plaintiffs who did not pay the balance sale consideration in time and hence they violate the terms of the sale agreement dated 01-09-2021 and construction agreement dated 16-09-2021 in paying the balance sale consideration. Then how they expected the we would complete the construction and sell the same to them within six months from the date of sale agreement. In fact, at the time of entering into the sale agreement dated 01-09-2021 the respondents/plaintiffs had paid a sum of Rs.1,00,000/- and thereafter they paid a sum of Rs.25,00,000/- by RTGS. As such as one date they had totally paid Rs.26,00,000/-. The other payments as mentioned in the columns by cash were not at all received by the petitioners/defendants at any point of time. Even the 2ndpetitioner / 2nddefendant is not aware of the said

alleged sale agreement dated 01-09-2021. The receipts filed in support of the payments are all created by the respondents/plaintiffs for the purpose of filing the above frivolous suit. The petitioners/defendants received only Rs.26,00,000/- out of sale consideration of Rs.78,00,000/-. The petitioners/defendants have not received any amount of Rs.52,00,000/- at any point of time. The respondents/plaintiffs never approached us for execution of sale deed, they avoided execution of sale deed and failed to adhere to the terms of the sale agreement dated 01-09-2021. The construction of schedule B property has to be completed and the possession has been handed over to them in the month of February 2022. There is no delay in completion of the Flat as alleged by the respondents/plaintiffs. They were always ready and willing to executed the sale deed, if the respondents/plaintiffs will pay the balance sale consideration of Rs.52,00,000/-. But instead of paying Rs.52,00,000/- they created the forged receipts by undue influence. They are very much interested in completing the construction, they mortgaged the entire project i.e. schedule property with Mukesh Agarwal. The respondents/plaintiffs failed to pay balance sale consideration as per the terms of the sale agreement balance sale consideration as schedule in the construction agreement and hence, they could not able to complete the schedule-B property in time. The 2nd respondent was a minor at the time of execution of sale agreement dated 01-09-2021 was invalid in law. They never gave any undertaking dated 02-11-2022. Since the alleged undertaking has not given by us, the question of acknowledgment of transactions such as payment of Rs.52,00,000/- does not arise at all. Since the undertaking have not given by us, the question of physical possession in respect of schedule B property will be delivered to the respondent/plaintiff on or before 2802-2023 does not arise. They had made all sorts of arrangements to extend the period of completion of construction from the concerned authorities. The subsequent agreement of sale dated 26-11-2024 signed by us under

threat and coercion by the petitioners/plaintiffs and their goondas. At the time of signing this agreement, the prime person i.e. the 3rdpetitioner/3rddefendant was suffering from paralyses and he was compelled to put his left thumb impression by the respondents/plaintiffs and their rowdy elements. Hence this agreement of sale is not valid in law and not binding on us. The respondents/plaintiffs are not ready and willing to complete the transaction by paying the balance sale consideration, they should pay the exact balance sale consideration of Rs.52,00,000/-. Apart from that the respondents/plaintiffs instead of filing a suit for specific performance, they filed the present commercial suit before this court is not at all maintainable either in law or facts. The respondents/plaintiffs failed to pay the balance sale consideration as per the terms of the sale agreement dated 01-09-2021. If they are not paying the balance sale consideration as scheduled in the construction agreement and hence, we could not able to complete the schedule – B property in time. There is no iota of truth in the averments that the respondents/plaintiffs paid the sale consideration in time. Since the agreement of sale dated 26-11-2024 is a fake document, which was created for filing this suit to save the limitation, the same is not taken into account for cause of action. They never stated to return the advance amount of Rs.26,00,000/- at any point of time as alleged by the respondents/plaintiffs as Rs.52,00,000/-. The respondents/plaintiffs claim are not applicable. Without initiating the Arbitration proceedings as per the terms of the Clause 18 of the Agreement of Construction dated 16-09-2021, the present suit is not maintainable. Hence this petition.

The gist of the counter filed by the respondents/plaintiffs:-

2. The 2ndrespondent/ 2ndplaintiff submits that after filing of written statement the petition filed under Section 8 of the Arbitration Act cannot be filed. Hence this petition is not maintainable. The petitioners/defendants had filed written statement already. The

suit is filed by the plaintiffs for recovery of money based on subsequent agreement dated 26-11-2024 in that agreement all the plaintiffs and defendants are parties in that agreement there is no arbitration clause. The petitioners have admitted the execution of sale agreement dated 26-11-2024. In the construction agreement dated 16-09-2021 the 2nd plaintiff is not a party. Further that the 2021 agreement and construction agreement are superseded by the 26-11-2024 agreement. Thus, the respondents/plaintiffs have not filed suit for enforcing the construction agreement dated 16-09-2021. The present suit is filed only for recovery of money which is paid for 26-11-2024 sale agreement and the sale agreement dated 26-11-2024 does not have any arbitration clause. The plaintiffs have entered into agreement for construction dated 16-09-2021 in the agreement there is a specific clause (18) of Arbitration and Conciliation Act regarding the dispute arose between them. In this Arbitration clause it is clearly stated that if the dispute arose between the plaintiffs and defendants, the Arbitrator will have to be appointed by both of them and submitted their claim before the Arbitrator to solve their dispute is denied as false. The fact is that the respondents/plaintiffs have not filed suit for enforcing the construction agreement dated 16-09-2021. The present suit is filed only for recovery of money which was paid for 26-11-2024 sale agreement and the sale agreement dated 26-11-2024 does not have any arbitration clause. The respondents/plaintiffs have paid Rs.52,00,000/- to the petitioners/defendants and they acknowledged and admitted the execution of sale agreement dated 26-11-2024. It is clearly mentioned in the sale agreement dated 26-11-2024 in paragraph 1 the respondents/plaintiffs have paid a sum of Rs.52,00,000/- on various dates by way of RTGS and cash to the petitioners/defendants as advance money, the receipt of which sum the petitioners/defendants admitted and acknowledged. The respondents/plaintiffs submits that the payment were promptly paid by the respondents/plaintiffs stage by stage which is

mentioned in the agreement and the receipts have filed along with plaint it shows the payment dates, without any delay the respondents/plaintiffs made their payments and the petitioners/defendants have admitted and acknowledged the same. The sale agreement dated 26-11-2024 signed by all the petitioners herein the respondents/plaintiffs have paid a sum of Rs.52,00,000/- on various dates by way of RTGS and cash to the petitioners/defendants as advance money, the receipt of which sum the petitioners/defendants admitted and acknowledged. The petitioners/defendants received the advance payment of Rs.52,00,000/- from the respondents/plaintiffs and on 08-05-2023 the petitioners/defendants had executed a mortgage deed in Doc.No.1638/23023 in favour of M/s. Shubh Investments and created mortgage in respect of schedule – B property and on 26-11-2024 which date the petitioners/defendants entered into a subsequent agreement superseding the earlier agreement of sale dated 01-09-2021 suppressing the mortgage deed dated 08-05-2023 the petitioners/defendants with malafide intention and to deceive the plaintiffs allotted the B schedule property to the plaintiffs vide sale agreement dated 26-11-2024 and thus cheated the respondents/plaintiffs. The documents filed in the plaint it shows the proof of evidence that the petitioners/defendants received the advance amount and thus cheated the respondents/plaintiffs. The present suit is filed only for recovery of money which is paid for 26-11-2024 sale agreement and the sale agreement dated 26-11-2024 does not have any arbitration clause. Hence this petition has to be dismissed.

The point for consideration:-

3. Whether this petition is to be allowed?
4. Heard both sides. Records perused.
5. The consideration of records shows that in the present suit issues have been already framed and the suit is at the stage of case management hearing/Trial. At this

stage the petitioners/defendants have filed the present petition under Section 8 of Arbitration and Conciliation Act, 1996 to refer the suit parties for arbitration as per the agreement dated 16-09-2021. It is relevant to consider as per Section 8 of the above Act a party to the arbitration agreement can apply before judicial authority to refer the matter to arbitration before submitting his first statement on the substance of the dispute, but in this suit the summons to the petitioners/defendants were served on 10-03-2026 and thereafter the petitioners/defendants filed vakalath on 16-03-2026 and thereafter they also filed written statement on 09-04-2026, based on which issues were framed on 30-04-2026, but the petitioners/defendants have filed the present petition under Section 8 of Arbitration and Conciliation Act on 30-04-2026. As such as the present petition has been filed subsequent to filing of written statement by the petitioners/defendants this petition is not maintainable and liable to be dismissed under Section 8 of Arbitration and Conciliation Act, 1996. Further when the petitioners/defendants allege that as per Ex.P6 there is an Arbitration Clause, the consideration of Ex.P16 shows that the Ex.P6 has been superseded by Ex.P16, and there is no Arbitration Clause in Ex.P16 based on which the present suit has been filed. Accordingly there is no merits in this petition, hence this petition is dismissed.

In the result this petition is dismissed. No cost.

Directly dictated to the steno-typist and directly typed by her in my desktop and corrected and pronounced by me in the open court, this 06th day of June 2026.

District Judge,
Additional Commercial Court,
Egmore, Chennai.

Draft/ Fair Order in
I.A.No.04/2026 in
C.O.S.No.114/2026
Dated: 06-06-2026
Additional Commercial Court