

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 22.08.2016

CORAM

THE HONOURABLE MR.JUSTICE **RAJIV SHAKDHER**

O.P.No.597 of 2015

1. Dr.K.Senthilnathan
2.Mrs.Menna

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Petitioners

.Vs.

1. M/s.Shriram City Union Finance Ltd.
No.123, Angappa Naicken Street,
Chennai-600001.

2. K.Vijayakumar
Arbitrator,
No.90, Peters Road,
New College Shopping Complex,
Royapettah, Chennai-14.

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Respondents

Prayer : Petition filed under Section 34 of the Arbitration and Conciliation Act, 1996 praying to set aside the Award, dated 11.08.2014, made by the second respondent and consequently dismiss the claim of the first respondent herein as prayed for.

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For Petitioner : Mr.S.Pugaleanthi

For Respondents : Mrs.R.Divya Priya
for Mr.M.Arvind Subramanian

ORDER

1. This petition lays challenge to the award, dated 11.08.2014. The learned arbitrator via the aforementioned award directed the petitioners to pay a sum of Rs.23,19,167/- (Rupees Twenty three Lakhs Nineteen thousand one hundred and sixty seven only) to the first respondent.

1.1. Furthermore, the arbitrator has awarded pendente lite interest @ 36% p.a. with effect from 11.03.2014 that is, the date of filing of claim petition till the date of award i.e.11.08.2014. The interest for this period is crystalised at Rs.18,08,400/-

1.2. In addition, interest @ 18% per annum, has been awarded by the learned arbitrator till the date of realisation of the awarded amount.

1.3. Learned arbitrator has also, awarded a sum of Rs.10,000/- to the first respondent, towards cost.

2. During the pendency of proceedings, in this Court, the petitioner was directed to deposit a sum of Rs.5,00,000/- (Rupees Five Lakhs only).

Since, the petitioner complied with the directions issued by this Court, in that behalf, on 12.04.2016, the Registry was directed, in subsequent proceedings, held on 22.06.2016, to liquidate the banking instrument and, invest the amount in an interest bearing Fixed Deposit.

3. It is not disputed before me that the petitioner did not fully participate in the proceedings conducted by the learned arbitrator.

4. However, Counsel for the respondents says that, in order to cut through unnecessary technicalities, she would have no objection if this Court were to set aside the impugned award and thereupon order a fresh adjudication by the arbitrator, with the following caveat. The caveat being that a sum of Rs.5,00,000/-, (which was deposited by the petitioner in this Court, and, since then, been invested in an interest bearing Fixed Deposit,) should remain intact and be governed by the result of the final award in the arbitration proceedings.

5. Accordingly, as submitted, the award is set aside.

5.1. The matter is remitted to the arbitrator Mr.K.Vijayakumar.

5.2. The petitioner, will appear before the arbitrator on 12.09.2016 at 3.00 P.M.

5.3. In case, for any reason, the aforementioned date is not convenient to the learned arbitrator, he will have liberty to fix another date which should be proximate to the date given above.

5.4. Furthermore, the sum of Rs.5,00,000/- (Rupees Five Lakhs only) which stands invested in an interest bearing security, will remain untouched, till such time directions are issued qua the said deposit in the final award.

6. Accordingly, this petition is, disposed of in the aforesaid terms.

22.08.2016

Index : Yes / No
Internet: Yes
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To

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RAJIV SHAKDHER, J.
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