

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.12.2017

CORAM

THE HONOURABLE MR.**JUSTICE M.M.SUNDRESH**

O.P.No.518 of 2015

1.M/s S.S.P.Duraiaraj (Firm), (Borrower),
Represented by its Partner Mr.S.S.P.Duraiaraj.

2.D.Ravi (Co-Borrower),
S/o Durairaj

3.D.Vijay, (Co-Borrower),
S/o Durairaj

All are having address at
No.17, Lotus Ramaswamy Street,
Royapuram, Chennai-600 013.

..Petitioners

Vs.

1.M/s Shriram City Union Finance Limited,
Represented by its Authorised Signatory
Mr.N.A.Ganesh Sanker,
No.221, Royapettah High Road,
Mylapore, Chennai-600 004.

2.Mr.D.Bhaskar,
Sole Arbitrator,
No.1, 3rd Floor, Rathinammal Street,
Rangarajapuram, Kodambakkam,
Chennai-600 024.

... Respondents

Original Petition filed under Section 34 of the Arbitration

and Conciliation Act, 1996, to set aside the Award dated 11.03.2015 made in Arbitration Case No.20 of 2014 passed by the 2nd respondent.

For Petitioners : Mr.S.L.Sudarsanam

For Respondents : Mr.Umashankar for
M/s Sri & Shankar Associates for R1

ORDER

An agreement dated 31.08.2010 was entered into between the petitioners and the first respondent under Ex.A3. This agreement was preceded by a loan requisition letter under Ex.A1 dated 05.08.2010 followed by loan sanction letter Ex.A2. The loan amount was for a sum of Rs.30 lakhs. The petitioners were supposed to repay the said amount with interest in 24 equated monthly instalments of Rs.1,64,666/- per month. The petitioners paid 15 instalments, that too belatedly. Thereafter, they committed default. Thus, a demand notice dated 05.02.2014 was issued under Ex.A4. As there was a continued default, arbitration clause was invoked by the first respondent.

2. The learned Arbitrator served notice on the parties. The petitioners appeared in person and expressed their willingness to settle the matter. Accordingly, the matter stood adjourned on three occasions. As the petitioner did not appear even thereafter, the matter was adjourned on two more occasions. Once again the petitioner did not appear.

3. The learned Arbitrator, after perusing Exs.A1 to A6, was pleased to pass an award which is a speaking one. Accordingly, the award was passed for a sum of Rs.25,57,450/- with interest at 18 % per annum. Challenging the same, the present original petition has been filed.

4. The learned counsel appearing for the petitioners would submit that the petitioners have not been given sufficient opportunities. The award was passed on the last date of the hearing.

5. This Court does not find any merit in this original

petition. A perusal of the award would show that numerous opportunities were given to the petitioners. In fact, they did not contest the award but sought time to settle the matter. Even thereafter, sufficient time was given. The Tribunal was not supposed to wait for the appearance of the parties endlessly. The award was a speaking one. All the documents filed by the first respondent were considered. The petitioners also did not dispute the documents filed.

6. In such view of the matter, this Court does not find any merit in this original petition. However, considering the fact that 18% interest has been levied as against the normal practice of 12%, the same stands modified to 12% per annum by taking into consideration the submission made by the learned counsel for the first respondent.

7. With the above modification, the original petition stands dismissed. No costs.

22.12.2017

raa

M.M.SUNDRESH,J.

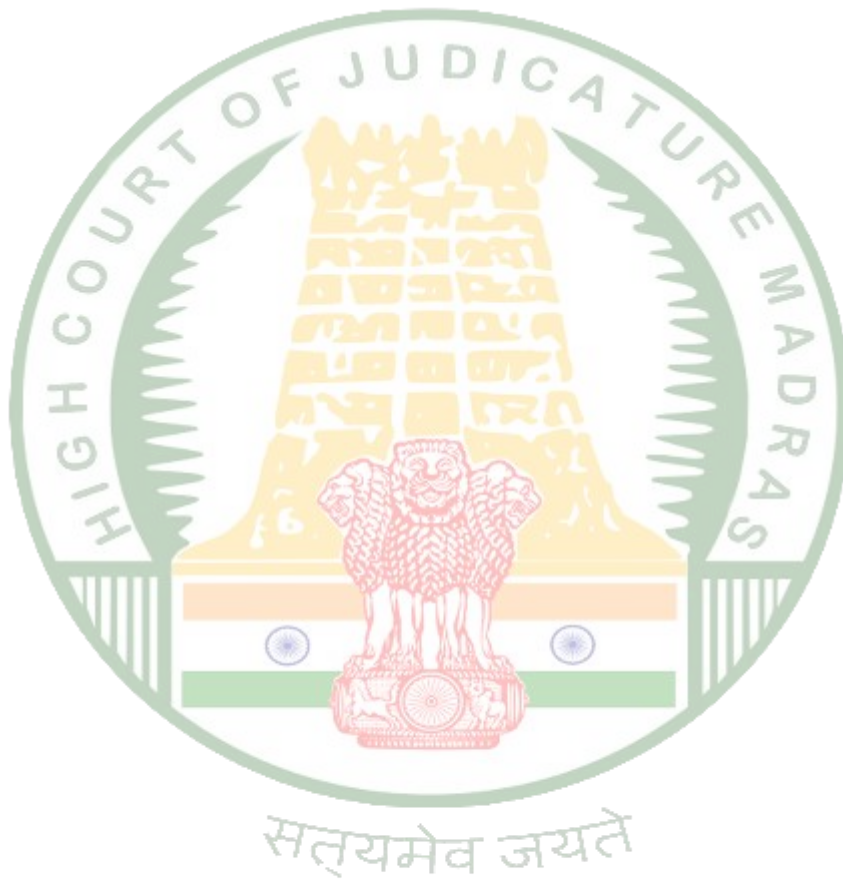
raa



O.P.No.518 of 2015

WEB COPY

22.12.2017



WEB COPY