

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.12.2017

CORAM

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

O.P.No.792 of 2012

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- 1.Mr.R.Sridhar
Son of Ramachandran,
Shop No.20, Second Floor,
Prince Plaza, No.46, Pantheon Road,
Egmore, Chennai-600008.
- 2.Ms.R.Gajalakshmi,
Wife of Ramachandran,
Shop No.20, Second Floor,
Prince Plaza, No.46, Pantheon Road,
Egmore, Chennai-600008. ..Petitioners
- Vs.
- 1.M/s Kotak Mahindra Bank Ltd.,
Fourth Floor, Ceebros Centre,
No.39, Montieth Road,
Egmore, Chennai-600 008.
- 2.Ms.R.Hamsaveni (Sole Arbitrator),
Having her office at No.77/155,
Fourth Floor, Broadway Road,
Opp. To Police Quarters Bus Stop,
Chennai-600 108. ... Respondents
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Original Petition filed under Section 34 of the Arbitration and Conciliation Act, 1996, to set aside the Award dated 02.08.2012 passed by the second respondent herein in respect of dispute between the petitioners and the first respondent.

For Petitioners : Mr.L.Rajasekar

For 1st Respondent : Mr.Yusuf for
M/s Nathan & Associates

ORDER

The petitioners are the borrowers. For obtaining personal loan, the petitioners entered into an agreement on 14.10.2006 with the first respondent. The repayment schedule was Rs.10,485/- in 36 instalments. After issuing notice of arbitration, the first respondent initiated arbitration clause for the expenditure incurred and the amount payable towards the dishonour of the cheque and bank charges. Considering the claim statement and the records as well as the reply statement, an award was passed by the learned Arbitrator directing the petitioners to pay a sum of Rs.52,707/- with interest at 18% per annum along with costs. Challenging the same, the present original petition has been filed.

2. The learned counsel appearing for the petitioners would submit that even as per the statement of accounts, the amount due has been paid. Therefore, the learned Arbitrator has committed an error in directing the petitioners to pay the

award amount.

3. A perusal of the award would show that it has been passed based on records. A reliance has been made on Ex.A5, which is the statement of accounts. It appears that the cheque issued by the petitioners got dishonoured. The records would reveal that payments have been made belatedly. Therefore, the petitioners did not make the monthly instalments as agreed upon. The Tribunal has also awarded interest for the belated payment made. Therefore, this Court does not find any error in the award passed by taking into consideration Exs.A1 to A5, which were not seriously disputed.

4. However, this Court finds some force in the submission of the learned counsel appearing for the petitioners insofar as 18% interest awarded by the Tribunal. The first petitioner is a borrower and the second petitioner is a guarantor. The interest was awarded at 18% from 18.06.2012. When once the Tribunal has given a finding that interest at 18% is excessive, the same ought not to have been awarded. In such view of the matter, the interest levied at 18% per annum from 18.06.2012 by the

learned Arbitrator is modified to 12% per annum as consistently ordered by the Apex Court. Accordingly, with the above modification, the original petition stands dismissed. No costs.

13.12.2017

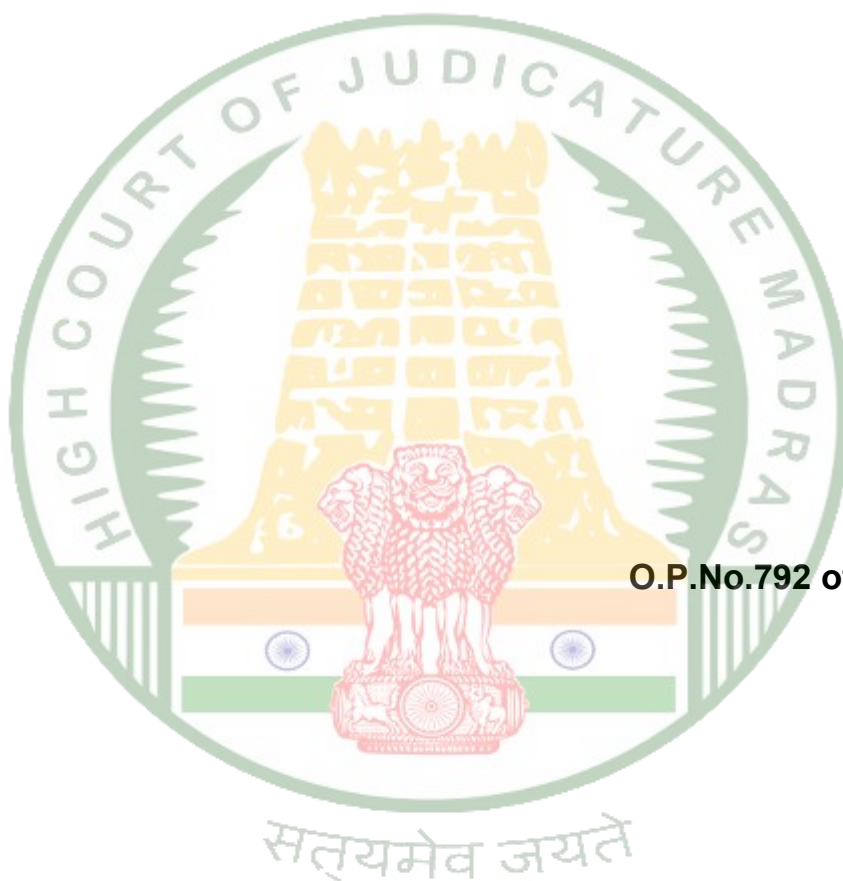
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M.M.SUNDRESH,J.

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