

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.10.2017

CORAM

THE HON'BLE MR.JUSTICE M.M.SUNDRESH

O.P.No.404 of 2016

S.Palani

.. Petitioner

.. Vs ..

1. M/s. Citicorp Finance India Limited,
Rep. by its Power of Attorney Holder,
Mr.V.Karthikeyan.
Thulsi Building - Ground Floor,
No.79/40, G.N.Getty Road,
T.Nagar, Chennai - 600 017.

2. Mr.D.Saravanan
Advocate/Sole Arbitrator,
'Orient Chambers',
4th & 5th Floor,
No.90/73, Armenian Street,
Chennai - 600 001.

3. S.Vasantha

.. Respondents

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Prayer:- Original Petition filed under Section 34 of the Arbitration and Conciliation Act, 1996, praying to set aside the award, dated 30.09.2014 passed by the second respondent in A.C.P.(CC) No.34 of 2013.

For Petitioner : Mr.R.Munuswamy

For R-1 : M/s.Arthee Saravanan
for Mr. Arunachalam

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ORDER

This Original Petition has been filed by the petitioner seeking to set aside the award, dated 30.09.2014 passed by the second respondent in A.C.P.(CC) No.34 of 2013.

2. The first respondent is a Non-Banking Finance Company incorporated under the Companies Act, 1956. The petitioner approached the first respondent/Company for availing finance facility for purchase of vehicle. Accordingly, an agreement was entered into between the parties. The agreement did contain an arbitration clause. As the petitioner did not comply with the terms and conditions in making the payment, possession of the vehicle was taken. Accordingly, a sale was effected. For the remaining amount, the first respondent/Company invoked the arbitration clause under 16 of the agreement.

3. The Tribunal issued notice for the hearing dated 02.12.2013. Though it was duly served on the petitioner, he did not appear. Thereafter, the matter was adjourned from time to time on six occasions. Once again, it was adjourned. As a final opportunity, the proceedings dated 25.07.2014 along with the claim statement and supporting documents filed were sent and they were duly served on the petitioner. The petitioner, once again, did not appear. In fact, the petitioner refused to receive the documents, and as rightly held by the learned Arbitrator, it would only mean a due compliance.

4. Before the learned Arbitrator, 14 documents have been filed. Considering the above, the learned Arbitrator was pleased to pass an award in favour of the first respondent/Company while reducing interest to 18% per annum. Challenging the same, the present petition has been filed.

5. Learned counsel appearing for the petitioner would submit that sufficient opportunities have not been given. The interest fixed is

high. The vehicle was taken repossession on sale. These contentions would not come within the purview of Section 34 of the Arbitration and Conciliation Act, 1996. Though want of notice could be a ground, the records would clearly indicate the service of notice on two occasions. Even after service, the learned Arbitrator has given sufficient time. A mere repossession and sale cannot be termed as compliance. Exs.A.1 to 14 would clearly indicate the liability of the petitioner. The interest of 18% per annum has been fixed by taking into consideration the transaction being commercial. Thus, this Court does not find any merit in this petition.

6. Hence, this Original Petition is dismissed. No costs.

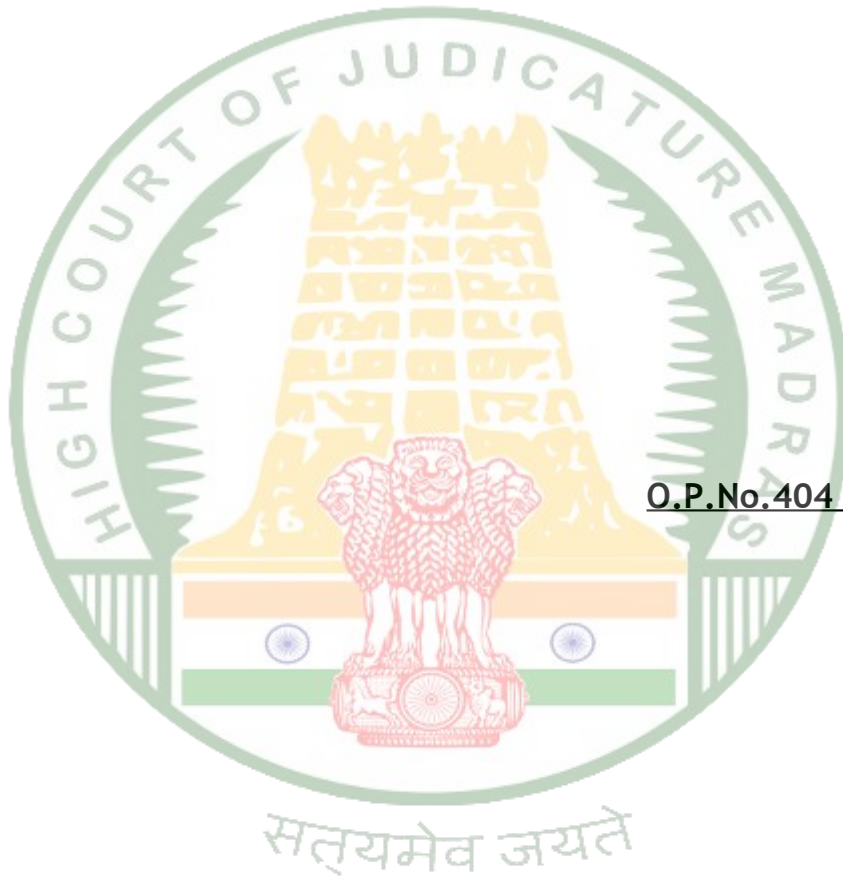
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M.M.SUNDRESH, J.

Jrl



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