

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.11.2017

CORAM

The Honourable MR. JUSTICE M.M.SUNDRESH

Original Petition No.722 of 2010

N.Raman

... Petitioner

..VS..

1. M/s Shriram Transport Finance
Company Ltd.,
rep. By its authorised representative
Mr.S.Varadhan
Mookambika Complex,
III Floor, 4, Lady Desikachari Road,
Mylapore, Chennai 4.

2. K.Balasubramanian
Sole Arbitrator,
I Floor, No.1069,
Block No.18,
Jeevan Bhima Nagar,
Anna Nagar West Extension,
Chennai 600 001

... Respondents

Original Petition is filed under Section 34 of the Arbitration and Conciliation Act, 1996, to set aside the Exparte Award dated 21.12.2009 passed by the learned sole Arbitrator Mr.K.Balasubramanian in Arbitration Case No.386 of 2009.

For Petitioner

: Mr.G.Jermiah

For Respondents

: No appearance

ORDER

This Original Petition is filed under Section 34 of the Arbitration and Conciliation Act, 1996 to set aside the Exparte Award dated 21.12.2009 passed by the 2nd respondent in Arbitration Case No.386 of 2009.

2. The petitioner executed a loan agreement as a borrower for the purchase of a Tractor. As the petitioner committed default, the respondent invoked the Arbitration Clause. The learned Arbitrator, after going through the relevant documents, especially Exs.C1 to C10, was pleased to pass an award for a sum of Rs.3,18,830/- along with 18% interest. The aforesaid award is sought to be set aside before this Court.

3. Heard the learned counsel for the petitioner and perused the materials available on record.

4. Despite notice having been served, there is no appearance for the respondents. In fact, this Court adjourned the matter on three earlier occasions, enabling the presence of the 1st respondent, but, he did not turn up.

5. The only point raised by the learned counsel for the petitioner is that the petitioner has not been heard and there was no notice issued by the learned Arbitrator before passing the award.

6. On a perusal of the award, it is seen that only a recording has been made to the effect that the petitioner has not appeared, as seen from the documents filed by the 1st respondent. Thus, there is no material to show that the learned Arbitrator has issued notice to the petitioner. Reliance made on Exs.C6 to C10 would not be sufficient, as the exchange of notices were made prior to the arbitral proceedings. In such view of the matter, this Court is constrained to set aside the award.

7. Accordingly, the Original Petition is allowed and the award dated 21.12.2009 passed by the 2nd respondent in Arbitration Case No.386 of 2009 is set aside.

WEB COPY 10.11.2017

rg

M.M.SUNDRESH,J

rg



Original Petition No.722 of 2010

WEB COPY

10.11.2017