

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.10.2018

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

OP.No.513 of 2016

1.M.Uma Chandran
2.T.S.Loganathan Petitioners

Vs

1.M/s.Shriram Transport Finance Company Limited
Chennai-19, represented by its General Power of Attorney
S.Varadhan, Chennai-4

2.M/s.Manoharshree Finance, represented by its Proprietor
Gajarajkothari, Chennai-79 Respondents

Prayer:- This Original Petition is filed, under Section 34 of the Arbitration and Conciliation Act, 1996, seeking to set aside the exparte Arbitration Award, dated 18.12.2015, passed by the Sole Arbitrator, in Arbitration Case F.No.151 of 2015.

For Petitioners : Mr.G.Janakiraman

For Respondents : Mr.K.S.Ramakrishnan-R1

ORDER

This Original Petition is filed, under Section 34 of the Arbitration and Conciliation Act, 1996, seeking to set aside the exparte Arbitration Award, dated 18.12.2015, passed by the Sole Arbitrator, in Arbitration Case F.No.151 of 2015.

2. This Court heard the learned counsel on either side.

3. According to the learned counsel for the Petitioners, without giving sufficient opportunity to the Petitioners to file their counter statement and without informing the date of hearing to the Petitioners, in the aforesaid arbitral proceedings and also without considering the objections sent by the Petitioners dated 20.03.2015, the impugned exparte award had been passed by the Arbitrator and hence, it is illegal and perverse. The learned counsel has further submitted that the Petitioners had paid the entire loan amount borrowed from the Respondents. In such circumstances, the learned counsel for the Petitioners has prayed to set aside the impugned exparte award and to afford sufficient opportunity to the Petitioners to put forth their grounds raised in this OP once again before the Arbitrator.

4. On the contrary, the learned counsel for the 1st Respondent has submitted that in spite of directing the Petitioners to appear before the Arbitrator for hearing, without appearing for the hearing, they had sent objections by Speed Post and subsequently, the impugned exparte award was passed. However, the learned counsel for the 1st Respondent has no objection in sending the matter back to the Arbitrator for consideration and disposal afresh, after giving sufficient opportunity to the

Petitioners. The learned counsel for the 1st Respondent has also insisted that in the event of sending the matter back to the Arbitrator for consideration afresh, the Petitioners shall not seek unnecessary adjournments and the arbitral proceedings may be directed to be disposed of, within a specified time frame.

5. In view of the above said submissions of the learned counsel on either side and by consent of both the learned counsel for the Petitioners and the 1st Respondent, this Original Petition is disposed of, with the following directions, however, on payment of cost of Rs.10,000/- in the manner as stated under:-

i. The impugned Arbitration Award, dated 18.12.2015, passed in Arbitration Case F.No.151 of 2015 is set aside, on payment of total cost of Rs.10,000/- (Rupees Ten Thousand only), out of which, Rs.5,000/- (Rupees Five Thousand only) shall be paid to the 1st Respondent and another sum of Rs.5,000/- (Rupees Five Thousand only) shall be paid to the Member Secretary, Tamil Nadu State Legal Services Authority, High Court, under the head, "Environment Fund", within a period of two weeks from the date of receipt of a copy of this order.

ii. The Petitioners shall file their reply statement before the Arbitrator, within a period of one week from the date of receipt of a copy of this order.

iii. The Arbitrator shall take up the matter once again, consider and pass orders, afresh, on merits and in accordance with law, after giving sufficient opportunity to the Petitioners, within a period of eight weeks thereafter.

iv. Both the parties shall cooperate with the Arbitrator for disposal of the arbitral proceedings within the said period, without seeking unnecessary adjournments.

01.10.2018

Index:Yes/No

Web:Yes/No

Speaking/Non Speaking

Srcm

D.KRISHNAKUMAR, J.

Srcm

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