

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 04.03.2019

Coram

THE HON'BLE MR. JUSTICE M. SUNDAR

O.P.No.624 of 2012

M/s.Sellam Associates,
rep by its Managing Partner Mr.K.Palanisamy,
No.21, Bala Subbarayalu Street,
Anoor Theatre Lane,
Erode, Pin-638 001 .. Petitioner

Vs.

1.M/s.Kotak Mahindra Bank Ltd.,
rep by its Authorised Signatory,
2nd Floor, 3 Dass India Tower,
2nd Line Beach, Parrys,
Chennai-600 001.

2.Mrs.P.Gokila Priya,
W/o.K.Palanisamy,
No.1/3, K.P.M.
Beemankaatu Street,
Kassipalayam,
Erode, Pin.638 002

3.Mr.D.Saravanan,
Advocate, Arbitrator & Mediator,
Orient Chambers No.90 (Old No.73)
4th & 5th Floor, Armenian Street,
Chennai-600 001. ... Respondents

Original Petition filed under Section 34 of the Arbitration and Conciliation Act, 1996 seeking to set aside the award dated 16.05.2012 passed by third respondent and to pass suitable orders and thus render justice.

For Petitioner : Mr.V.Srikanth

For Respondents : Mr.K.Moorthy for R-1

ORDER

There is a sole petitioner and three respondents in this 'Original Petition' (hereinafter 'OP' for brevity).

2 Mr.V.Srikanth, learned counsel on record for petitioner and Mr.K.Moorthy, learned counsel for contesting first respondent are before this Court.

3 Both learned counsel submit that both parties have arrived at a settlement and have reduced the terms to writing by way of a 'Joint Memorandum of Compromise' dated 04.03.2019 (hereinafter 'said MOC' for brevity). Learned counsel for petitioner further submits that second respondent is the guarantor and third respondent is the Arbitrator and hence, they are given up by the petitioner in view of the compromise.

4 On the side of the petitioner, Mr.K.Palanisamy (this Court is informed that he is the Managing Partner of Sellam Associates) is present and on the side of first respondent, Mr.J.Senthil, Deputy Manager, duly authorized by way of a resolution dated 04.05.2018 made by the first respondent Bank, are before this Court.

5 Aforesaid learned counsel and their respective clients who are

<http://www.judis.nic.in> before this Court confirm that they have executed said MOC and both learned

counsel, on instructions, from their respective clients request that the same may please be recorded.

6 Said MOC reads as follows:

JOINT MEMORANDUM OF COMPROMISE

- 1.The petitioner suffered an Arbitration Award dated 16.05.2012 passed by the 3rd Respondent / Arbitrator at the instance of the 1st Respondent herein. The 2nd Respondent stood guarantee for the loan obtained by the petitioner.
- 2.The contesting party being the 1st Respondent / Financer and the Petitioner / Borrower have amicably resolved to settle the disputes, pursuant to which this Memorandum is filed.
- 3.The 1st Respondent has accepted the settlement proposed through their e-mail dated 15.02.2019 agreeing to receive a sum of Rs.5,57,654/- (Rupees Five Lakhs Fifty Seven Thousand Six Hundred and Fifty Four Only) as full and final settlement to close the Loan Agreement No.SA188005 dated 27.12.2007.
- 4.A Demand draft No.409944 dated 02.03.2019 drawn on Indian Bank, Erode for a sum of Rs.5,57,654/- (Rupees Five Lakhs Fifty Seven Thousand Six Hundred and Fifty Four Only) payable in favour of the 1st Respondent is handed over to them along with this Memorandum.
- 5.The 2nd Respondent is the Guarantor and the 3rd Respondent is Arbitrator and they are hereby given up by the petitioner in view of the compromise.

In the above said circumstances, the Petitioner and the 1st Respondent pray that this Joint Memorandum of Compromise may be recorded and the Original Petition may be closed as settled and pass orders and thus render justice.

Dated at Chennai on this 04th day of March 2019.

Sd/-
PETITIONER

Sd/-
1st RESPONDENT

Sd/-
COUNSEL FOR PETITIONER

Sd/-
COUNSEL FOR
THE 1st RESPONDENT

7 The parties present before this Court reiterate the terms of said MOC and reiterate the request to record the same.

8 Both aforesaid parties before this Court have produced their photo identity cards, viz., Aadhar Cards and also self-attested photocopies of aforesaid photo identity cards.

9 Said MOC together with a certified true copy of the resolution passed by the first respondent Bank (04.05.2018) and self attested photocopies of photo identity cards of the parties produced before Court are taken on record.

10 Recording the said MOC, instant OP is disposed of / closed. No costs.

WEB COPY

04.03.2019

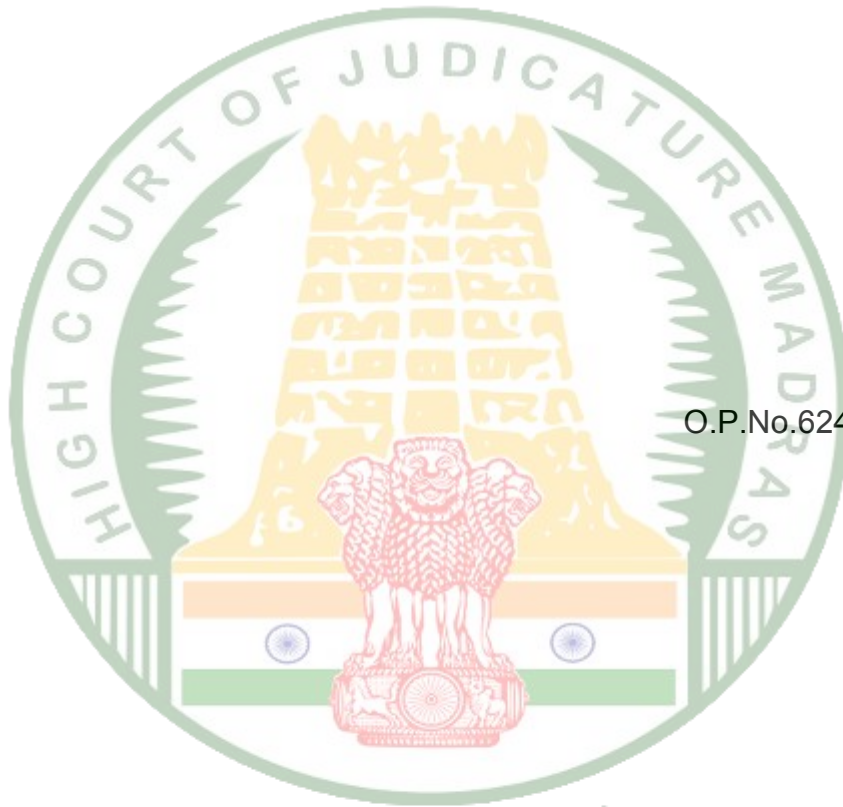
Index : Yes/No

Speaking order /Non speaking order

vvk

M.SUNDAR.J.,

vvk



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04.03.2019

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