

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date : 23.07.2019

CORAM

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

O.P.Nos.86, 87, 89 and 90 of 2012

1. Sree Rama Siva Sai Co,
Rep. By its Managing Partner,
Mr.G.Srinivasalu,
D.No.2/23, Mangampet,
Kadapa District, Pin Code – 516 106.

2. G.Sridhar, Sri Ramachandran Road Ways
2/38, Management Part,
Obulavaripalli, Cuddapah

... Petitioners in O.P.Nos.87 and 89 of
2012

1. G.Narayana
2. G.Srinivasulu

... Petitioners in O.P.Nos. 86 and 90 of
2012

Vs

1. M/s.Indusind Bank Limited,
(Formerly known as Ashok Leyland Finance Ltd)
Rep by its Managing/Executive – Legal
Old No.115 & 116, G.N.Chetty Road,
T.Nagar, Chennai – 600 017.

2. Mr.G.Rajesh, Advocate,
Arbitrator, No.155, 2nd Floor,
Linghi Chetty Street, George Town,
Chennai – 600 001.

... Respondents in O.P.Nos.86,
87, 89 and 90 of 2012

Prayer in O.P.No.86 of 2012:- Original petition has been filed under Section 34(1) of the Arbitration and Conciliation Act, 1996, to set aside the award passed by the 2nd Respondent/Learned Arbitrator in Claim petition No.G.R.256 of 2010 dated 23.12.2010.

Prayer in O.P.No.87 of 2012:- Original petition has been filed under Section 34(1) of the Arbitration and Conciliation Act, 1996, to set aside the award passed by the 2nd Respondent/Learned Arbitrator in Claim petition No.G.R.263 of 2010 dated 23.12.2010.

Prayer in O.P.No.89 of 2012:- Original petition has been filed under Section 34(1) of the Arbitration and Conciliation Act, 1996, to set aside the award passed by the 2nd Respondent/Learned Arbitrator in Claim petition No.G.R.257 of 2010 dated 23.12.2010.

Prayer in O.P.No.90 of 2012:- Original petition has been filed under Section 34(1) of the Arbitration and Conciliation Act, 1996, to set aside the award passed by the 2nd Respondent/Learned Arbitrator in Claim petition No.G.R.262 of 2010 dated 23.12.2010.

For Petitioners in all O.Ps : Mr.K.V.Ramesh
For Respondents in all O.Ps : Mr.V.V.Giridhar for R1.

COMMON ORDER

Challenge has been made against the arbitration award passed by the learned Arbitrator in the above original petitions.

2. The only ground canvassed by the learned counsel for the petitioners before this Court that notice was not served and no opportunity has been given. The learned counsel for the petitioner has also brought to the notice of this Court that the proceedings of the hearing date, 02.11.2010, has been communicated only on 24.02.2011, much after the hearing date. Therefore, his contention that no opportunity has been given to him to put forth his grace. Hence, prays to set aside the award.

3. The learned counsel for the respondents would contend that several notice has been sent and served on the respondents. Despite service of notice, they had not appeared before the Court. Hence, the matter has been proceeded exparte.

4. I have perused the entire award. The award clearly indicates that the notice has been served on 30.08.2010 along with claim petition (dated 27.08.2010) and

documents, fixing the date of hearing on 21.09.2010 was sent to the respondents/petitioners and the notice was served. Thereafter, on 21.09.2010, the respondents/petitioners were absent. Further, the matter was adjourned to 12.10.2010, again the notice was sent to the correct address of the respondents/petitioners. On that day also, they had not appeared. Again, the matter was adjourned finally to 02.11.2010. On 02.11.2010, the respondents/petitioners were called absent and the claimant was present. Hence, the matter was proceeded ex parte.

5. In view of the above, the contention of the petitioners that the notice has been sent belatedly on 24.02.2011 cannot be countenanced for their representation, before that date, several notice has been sent but the petitioners were remained absent and did not appear before the Arbitrator. Therefore, it cannot be said that there is no opportunity given to them and no notice has been served. Hence, I do not find any materials to interfere with the award passed by the learned Arbitrator. Accordingly, the above original petitions are dismissed. No costs.

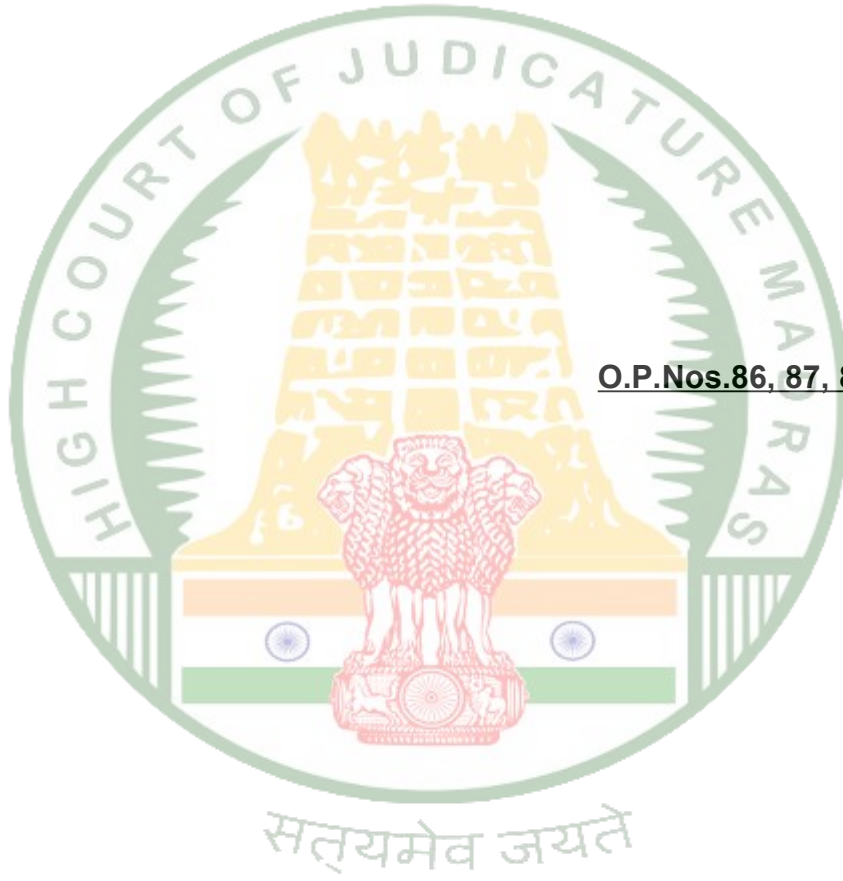
6. It is the contention of the learned counsel for the petitioners that he has already discharged the amount. Such being the position, the same can be agitated in the execution proceedings to prove his discharge.

23.07.2019

msv
Index:Yes/No
Internet:Yes/No
Speaking order: Non-speaking order

N.SATHISH KUMAR,J.

msv



O.P.Nos.86, 87, 89 and 90 of 2012

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