

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 29.04.2019

Coram

THE HONOURABLE MR. JUSTICE M.SUNDAR

O.P.No.572 of 2015

1. Senthilvel A.K.R

2. Sasirekha S.V

.. Petitioners

vs.

1. M/s. Cholamandalam Investments
& Finance Co.Ltd.
(Formerly known as M/s. Cholamandalam
DBS Finance Co.Ltd)

Represented by its Deputy Manager -
Legal R.Sivakumar
Home Equity, DAREHOUSE.
No.2, N.S.C.Bose Road, Chennai - 600 001.

2. Y.K.Rajagopal - SOLE ARBITRATOR,
Advocate,
222/3, Rohini Flats,
Anna Nagar West, Chennai 600 101.

... Respondents

Original Petition filed under Section 34 of the Arbitration and Conciliation Act, 1996, to

- (i) set aside the EXPARTE AWARD passed by the second respondent in Arbitration Case R.C.I. & F.C.L. 9 of 2013 dt. 16.12.2013
- (ii) direct the respondents to pay the cost and
- (iii) pass such further and other orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

For Petitioners : Ms. P.V.Jayakumari
For Respondents : Mr.T.M.Mano for
Mr.S.Namasivayam for R1

ORDER

Ms.P.V.Jayakumari, learned counsel on record for both the petitioners and Mr.T.M.Mano, learned counsel representing the counsel on record for the contesting first respondent are before this Court.

2. To be noted, the second respondent in instant OP is the sole arbitrator, who constituted the Arbitral Tribunal which made the impugned award. Considering the grounds raised, it was not necessary to have arrayed the sole Arbitrator as a co-respondent. However, as the 'Original Petition' ('OP' for brevity) itself is getting disposed of, this Court is not embarking upon the exercise of directing deletion of second respondent i.e., the sole Arbitrator, as it will cause procedural delay.

3. Be that as it may, counsel for petitioners has filed a memo dated 26.04.2019 enclosing an order dated 02.01.2017 made by a Hon'ble Division Bench of this Court in W.P.No.43578 of 2016.

4. Aforesaid memo dated 26.04.2019 filed on behalf of the petitioners reads as follows:

1. The above named petitioner begs to state that during the pendency of the above Original Petition, the Petitioner and the 1st Respondent were entered into a compromise for settlement of the Loan Account No.XOHECO100000699221, accordingly the compromise were entered between the petitioner and the 1st Respondent for a sum of Rs.2,26,83,000/- (Rs.Two Crores twenty Six Lakhs and Eighty Three thousands only) towards full and final settlement for the closure of the above referred Loan Account, which includes the award amount of the 2nd respondent dated on 16.12.2013.

2. The Petitioner humbly states that in view of the comprise was arrived, the petitioner has paid the entire Settlement Amount of Rs.2,26,83,000/- (Rs.Two Crores twenty Six Lakhs and Eighty Three thousands only) by way of Eight Demand Drafts all dated 22.12.2016 towards "FULL & FINAL SETTLEMENT" of the entire Loan Account, which includes the award amount of the 2nd respondent dated on 16.12.2013. The Settlement of the loan Account and the award of the 2nd respondent has been duly recorded by this Hon'ble Court in Writ Petition No.43578/2016 dated 02.01.2017 and herewith enclosing the copy of the Order made in Writ Petition No.43578/2016.

In view of foregoing circumstances, the petitioners therefore pray that this Hon'ble Court may be please to record this Memo and close the above O.P.No.572/2015 and pass the

appropriate order in accordance with law thus render justice.'

5. Both the aforesaid learned counsel before this Court confirm that the matter has been settled and petitioners and first respondent have no claims whatsoever against each other with regard to transaction, which is subject matter of instant OP. Saying so, both learned counsel request that this OP may please be disposed of recording the aforesaid memo.

6. Aforesaid memo is recorded and instant OP is disposed of as closed. There shall be no order as to costs.

29.04.2019

Speaking Order/Non-Speaking Order

Index : Yes/No

Internet: Yes/No

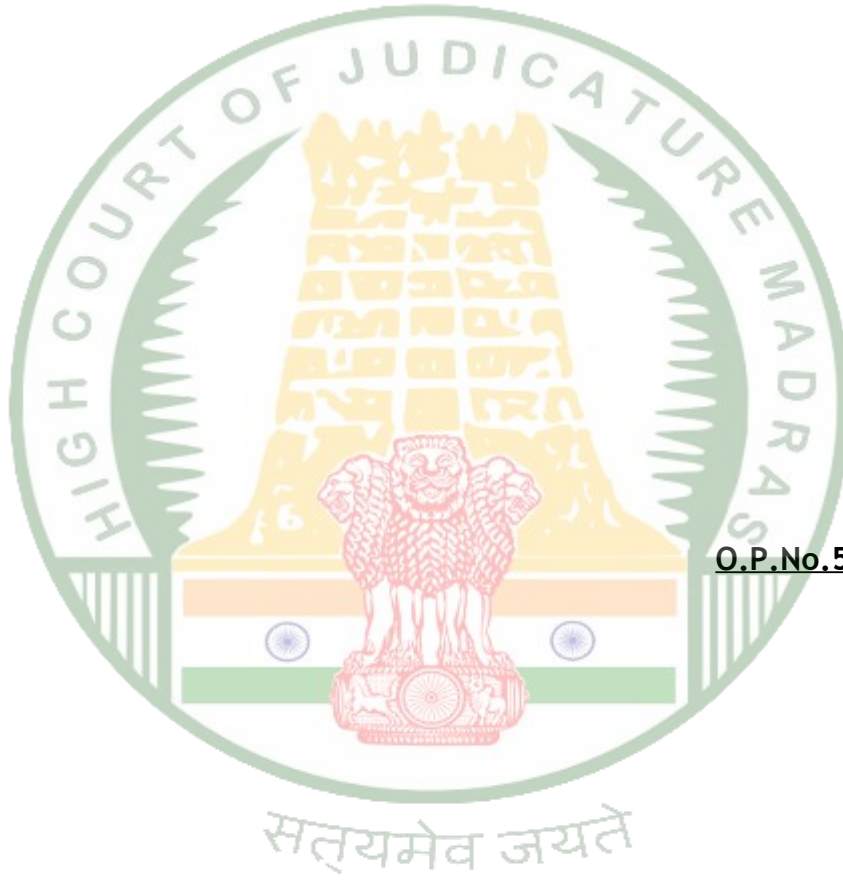
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M.SUNDAR, J.

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