

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.01.2019

CORAM:

THE HONOURABLE MR. JUSTICE S.VAIDYANATHAN

Original Petition No.969 of 2015

1.Pandiyan
2.Senguttuvan

...Petitioner

Vs.

1.Mahindra & Mahindra Financial Services Limited,
Having its registered office at Gateway Building,
Apollo Bunder, Mumbai - 400 001.
with its Corporate Office at: Sadhana House,
2nd Floor, 570, P.B. Marg, behind Mahindra Towers,
Worli, Mumbai - 400 018.

2.Mr.A.Srinivasan,
Sole Arbitrator.

...Respondents

Petition filed under Section 34 of the Arbitration and Conciliation Act, 1996 to set aside the Arbitration Award dated 28.11.2013 in Ref No.BD-103-NPA-ARB-AS 101/QN4526/356407 of 2011.

For Petitioner : Mr.C.Munnusamy

For 1st Respondent : No appearance

ORDER

The petitioner has come forward with the aforesaid Original Petition to set aside the Arbitration Award, dated 28.11.2013 in Ref No.BD-103-NPA-ARB-AS 101/QN4526/356407 of 2011.

2. Learned counsel for the petitioner took several adjournments on the ground that the matter would be settled between the parties in the near future. For better appreciation, the adjournments granted in this matter are extracted below:

“ SVNJ

At the request of the counsel for the petitioner,
post after two weeks.

B/o
maya
12/11/18

SVNJ

At the request of the learned counsel for the
petitioner, post the matter after two weeks.

B/o,
maya
27/11/18

S.VAIDYANATHAN, J.

At the request of the learned counsel for the
petitioners, the matter has been adjourned on several
occasions. Even today, learned counsel for the
Petitioners sought two weeks' time.

2. As a last chance, two weeks' time is granted
to the learned counsel for the Petitioners on condition
that he pays cost of Rs.5,000/- (Rupees Five Thousand
only) within a period of one week from the date of
receipt of a copy of this order, payable to the
Secretary, Madras Bar Association, High Court Buildings,
Chennai, and the said amount shall be utilized for
providing relief material to persons affected by Gaja
cyclone.

Post the matter on 08.01.2019.

11.12.2018”

3. Even today, learned counsel for the Petitioner sought adjournment in this matter. However, this Court was not inclined to grant adjournment and directed the learned counsel for the petitioner to address arguments.

4. Pursuant thereto, the learned counsel for the petitioner contended that the Award passed by the Arbitrator is an ex parte Award and that the Arbitration proceedings has been initiated without sending notice to the petitioner herein and therefore, the Arbitral Award has to be interfered with.

5. A reading of the Arbitral Award would show that the seat of Arbitration was at Mumbai and the Arbitrator has conducted the proceedings at Mumbai and passed the Award as early as on 28.11.2013. The present Original Petition was filed on 01.04.2014 and numbered on 01.12.2015. For the sake of convenience, relevant portion of the Award, which conveys that the Arbitration took place at Mumbai, is extracted below:

“It is recorded on this 28th day of November 2013 that the Arbitral Proceedings were held at Mahindra & Mahindra Financial Services Ltd, Sadhana House, Ground Floor, No.570, P.B.Marg, Worli, Mumbai - 400 018.

Date: 28-11-2013

Place: Mumbai”

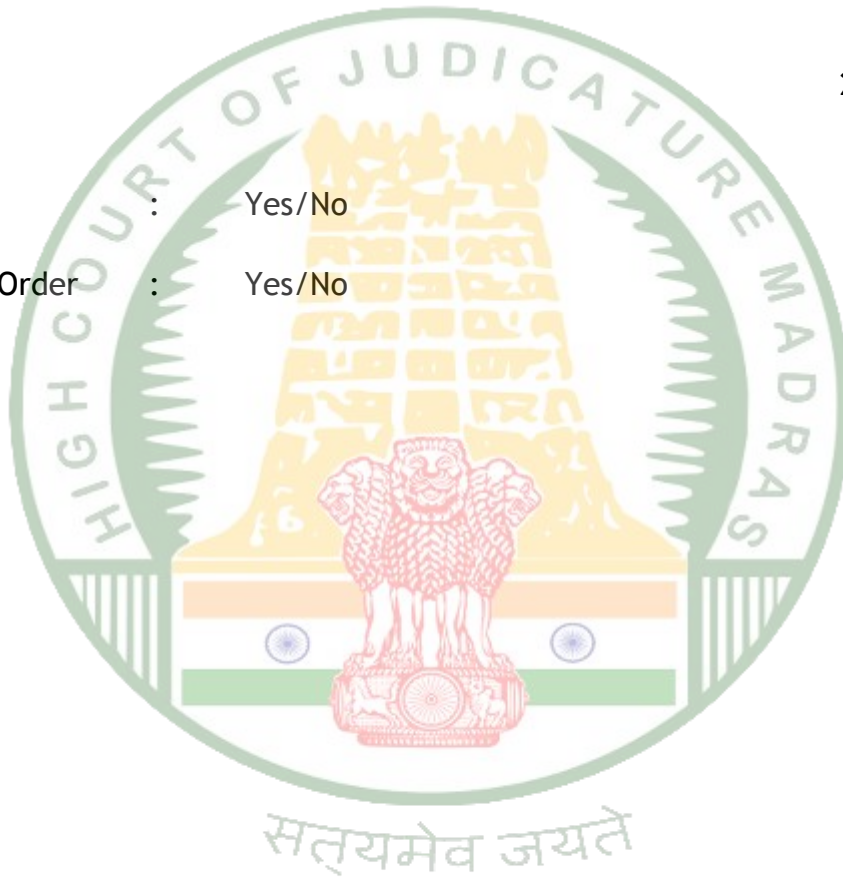
6. As seen from above, the seat of Arbitration was at Mumbai and hence, this Court has no jurisdiction to take up this matter. Consequently, the Original Petition is dismissed.

28.01.2019

Index : Yes/No

Speaking Order : Yes/No

(tsg)



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S.VAIDYANATHAN,J.

(tsg)



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