

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 03.04.2019

Coram

THE HONOURABLE MR. JUSTICE M.SUNDAR

O.P.No.783 of 2018

1.S.Pandi Meenakshi

2.R.Karuppuswamy

... Petitioners

vs.

Hinduja Leyland Finance LTD

Rep. By its Authorised representative

Ms.P.Vedhavalli

Having its Registered Office at

No.1, Sardar Patel Road, Guindy

Chennai - 600 0032.

No.27, Developed Industrial Estate

Guindy, Chennai - 600 032.

... Respondent

Original Petition filed under Section 34 of the Arbitration and Conciliation Act, 1996, to set aside the award passed in Arbitration claim petition (ACP) No.5 of 2017 dated 19.04.2018 by the sole arbitrator namely P.H.Vinod Pandian in the matter between Hinduja Leyland Finance Ltd and S.Pandi Meenakshi and another; direct the respondent to pay cost and pass such further or other orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

For Petitioners : Mr.C.D.Sugumar

For Respondent : Mr.K.Moorthy

ORDER

There are two petitioners and a lone respondent in the instant 'Original Petition' ('OP' for brevity).

2. Instant OP has been filed under Section 34 of 'The Arbitration and Conciliation Act, 1996 ('A & C Act' for brevity) assailing an 'arbitral award dated 19.04.2018' ('impugned award' for brevity) made by an 'Arbitral Tribunal' ('AT' for brevity) constituted by a sole arbitrator.

3. Section 34 in the scheme of A & C Act finds its slot under Chapter VII of A & C Act, which is captioned 'RECOURSE AGAINST ARBITRAL AWARD'. A perusal of Section 34 of A & C Act also reveals that recourse to Court against an arbitral award may be made by an 'application'. Also to be noted, the very caption to Section 34 of A & C Act reads 'APPLICATION FOR SETTING ASIDE AN ARBITRAL AWARD'. Be that as it may, such recourse against an arbitral award is being assigned the nomenclature 'Original Petition' in this Registry. Therefore, I shall refer to the instant proceedings as 'OP' for the sake of convenience and clarity.

4. This Court is informed that sole respondent before this Court is a 'Non-Banking Finance Company' ('NBFC' for brevity). That the sole respondent is a

NBFC has been set out in the claim petition which has been placed before this Court as part of case file.

5. NBFC is the sole claimant before AT. Petitioners 1 and 2 in the instant OP are respondents 1 and 2 respectively before AT.

6. Mr.C.D.Sugumar, learned counsel on record for the two petitioners in instant OP and Mr.K.Moorthy, learned counsel on record for the sole respondent (NBFC) in the instant OP are before this Court.

7. The transaction between the petitioners in instant OP and respondent NBFC pertains to finance for purchase of a vehicle (passenger Car) being Hyundai 1-0 Engine No.G4HGBM368794 Chassis No.MALAA51HLBM719327J (hereinafter 'said Car' for brevity).

8. It unfurls from the case file placed before this Court that a loan of Rs.4 lakhs was given by NBFC to petitioners for purchase of said Car under loan agreement being loan agreement No.TNMDRA00091 dated 12.11.2011 (hereinafter 'said loan agreement' for brevity).

9. Suffice to say that under the said loan agreement, petitioners 1 and 2, as borrower and guarantor respectively, were jointly and severely liable to pay a total sum of Rs.5,36,000/- (Rs.5.36 lakhs) in 47 monthly installments. The monthly instalments are payable from 12.11.2011 to 07.08.2015.

10. It is the case of NBFC that first petitioner borrower, committed default, owing to which, said Car was seized/repossessed by NBFC barely in four months from the date of said loan agreement. To be precise, said Car was seized/repossessed by NBFC on 14.03.2012. This is not in dispute.

11. Post such seizer/repossession on 14.03.2012, said Car was sold by NBFC on 05.04.2013. According to NBFC, said Car was sold for Rs.2,35,000/-. To be noted, the details of sale of said Car and the value for which it is said to have been sold have been set out in the impugned award, but it does not find place in the claim statement. Nonetheless, learned counsel for NBFC submits that these details have been set out in an amended claim statement filed by NBFC before AT on 20.02.2018.

12. Under the aforesaid circumstances, more than five years after the seizer/repossession of said Car and nearly four years after sale of said Car, a notice dated 24.04.2017 was issued by NBFC arraying the petitioners as

noticees/addresses. There is no dispute or disagreement that this is the notice under which arbitration clause between the parties has been invoked. To be noted, arbitration agreement between the parties i.e., NBFC and petitioners 1 and 2 being arbitration agreement within the meaning of Section 7 of A & C Act is in the form of a Clause/Covenant in the said loan agreement i.e., Clause 23, which reads as follows:

'23.0. LAW JURISDICTION, ARBITRATION

(a) All disputes, differences and/or claim arising out of or touching upon this Agreement whether during its subsistence or thereafter shall be settled by arbitration in accordance with the provisions of the Arbitration and Conciliation Act, 1996, or any statutory amendments thereof and shall be referred to the sole Arbitration of an Arbitrator nominated by the Lender. The award given by such an Arbitrator shall be final and binding on the Borrower and Guarantor to this agreement.

(b) Dispute for the purpose of Arbitration includes default committed by the Borrower as per clause 14 of this Agreement.

It is a term of this agreement that in the event of such an Arbitrator to whom the matter has been originally referred to dying or being unable to act for any reason, the Lender, at the time of such death of the arbitration or of his inability to act as arbitration, shall appoint another person to act as arbitrator. Such a person shall be entitled to proceed with the reference from the stage at which it was left by his predecessor.

(c) The venue of Arbitration proceedings shall be at Chennai. The language of such arbitration shall be English.

(d) The Arbitrator so appointed herein above, shall also be

entitled to pass an Award on the hypothecated asset and also on any other securities furnished by or on behalf of the Borrower/Guarantor.

(e) All the notices and other communications on the Lender and the Borrowers shall be to the following address:

For Lender : Hinduja Leyland Finance No.1, Sardar Patel Road, Guindy, Chennai - 600 032, Tamil Nadu, India.

For Borrower: The residential address stated in the schedule or the property address described in the schedule.'

13. The date of receipt of this notice dated 24.04.2017 by the petitioners is not clear. The date of receipt of this notice by petitioners shall be the date of commencement of arbitration proceedings within the meaning of Section 21 of A & C Act. This date shall be the relevant date for testing limitation as has been laid down by Hon'ble Supreme Court in ***State of Goa Vs. M/s.Praveen Enterprises*** reported in **(2012) 12 SCC 581**. Relevant paragraphs in Praveen Enterprises case are paragraphs 15 to 19 and the same read as follows:

'15. In regard to a claim which is sought to be enforced by filing a civil suit, the question whether the suit is within the period of limitation is decided with reference to the date of institution of the suit, that is, the date of presentation of a plaint. As Limitation Act, 1963 is made applicable to arbitrations, there is a need to specify the date on which the arbitration is deemed to be instituted or commenced as that will decide whether the proceedings are barred by limitation or not. Section 3 of Limitation Act, 1963 specifies the date of institution for suit,

but does not specify the date of 'institution' for arbitration proceedings. [Section 21](#) of the Act supplies the omission. But for [section 21](#), there would be considerable confusion as to what would be the date of 'institution' in regard to the arbitration proceedings. It will be possible for the respondent in an arbitration to argue that the limitation has to be calculated as on the date on which statement of claim was filed, or the date on which the arbitrator entered upon the reference, or the date on which the arbitrator was appointed by the court, or the date on which the application was filed under [section 11](#) of the Act. In view of [section 21](#) of the Act providing that the arbitration proceedings shall be deemed to commence on the date on which "the request for that dispute to be referred to arbitration is received by the respondent" the said confusion is cleared. Therefore the purpose of [section 21](#) of the Act is to determine the date of commencement of the arbitration proceedings, relevant mainly for deciding whether the claims of the claimant are barred by limitation or not.

16. There can be claims by a claimant even without a notice seeking reference. Let us take an example where a notice is issued by a claimant raising disputes regarding claims 'A' and 'B' and seeking reference thereof to arbitration. On appointment of the arbitrator, the claimant files a claim statement in regard to the said claims 'A' and 'B'. Subsequently if the claimant amends the claim statement by adding claim 'C' [which is permitted under [section 23\(3\)](#) of the Act] the additional claim 'C' would not be preceded by a notice seeking arbitration. The date of amendment by which the claim 'C' was introduced, will become the relevant date for determining the limitation in regard to the said claim

'C', whereas the date on which the notice seeking arbitration was served on the other party, will be the relevant date for deciding the limitation in regard to Claims 'A' and 'B'.

Be that as it may.

17. As far as counter claims are concerned, there is no room for ambiguity in regard to the relevant date for determining the limitation. [Section 3\(2\)\(b\)](#) of Limitation Act, 1963 provides that in regard to a counter claim in suits, the date on which the counter claim is made in court shall be deemed to be the date of institution of the counter claim. [As Limitation Act](#), 1963 is made applicable to arbitrations, in the case of a counter claim by a respondent in an arbitral proceedings, the date on which the counter claim is made before the arbitrator will be the date of "institution" in so far as counter claim is concerned. There is, therefore, no need to provide a date of 'commencement' as in the case of claims of a claimant. [Section 21](#) of the Act is therefore not relevant for counter claims. There is however one exception. Where the respondent against whom a claim is made, had also made a claim against the claimant and sought arbitration by serving a notice to the claimant but subsequently raises that claim as a counter claim in the arbitration proceedings initiated by the claimant, instead of filing a separate application under [section 11](#) of the Act, the limitation for such counter claim should be computed, as on the date of service of notice of such claim on the claimant and not on the date of filing of the counter claim.

Scope of [sections 11](#) and [23](#) of the Act

18. [Section 11](#) refers to appointment of arbitrators. Sub-sections (4), (5), (6) and (9) of [section 11](#) relevant for our purpose are extracted below:

"(4) If the appointment procedure in sub-section (3) applies and-

(a) a party fails to appoint an arbitrator within thirty days from the receipt of a request to do so from the other party; or

(b) the two appointed arbitrators fail to agree on the third arbitrator within thirty days from the date of their appointment, the appointment shall be made, upon request of a party, by the Chief Justice or any person or institution Designated by him.

(5) Failing any agreement referred to in sub-section (2), in an arbitration with a sole arbitrator, if the parties fail to agree on the arbitrator within thirty days from receipt of a request by one party from the other party to so agree the appointment shall be made, upon request of a party, by the Chief Justice or any person or institution Designated by him. (6) Where, under an appointment procedure agreed upon by the parties,-

(a) a party fails to act as required under that procedure; or

(b) the parties, or the two appointed arbitrators, fail to reach an agreement expected of them under that procedure; or

(c) a person, including an institution, fails to perform any function entrusted to him or it under that procedure, a party may request the Chief Justice or any person or institution Designated by him to take the necessary measure, unless the agreement on the appointment procedure provides other means for securing the appointment.

xxx xxx xxx (9) In the case of appointment of sole or third arbitrator in an international commercial arbitration, the Chief Justice of India or the person or institution designated by him may appoint an arbitrator of a nationality other than the nationalities

of the parties where the parties belong to different nationalities."
(emphasis supplied)

19. [Section 23](#) relating to filing of statements of claim and defence reads thus:

"23. Statements of claim and defence.- (1) Within the period of time agreed upon by the parties or determined by the arbitral tribunal, the claimant shall state the facts supporting his claim, the points at issue and the relief or remedy sought, and the respondent shall state his defence in respect of these particulars, unless the parties have otherwise agreed as to the required elements of those statements.

(2) The parties may submit with their statements all documents they consider to be relevant or may add a reference to the documents or other evidence they will submit.

(3) Unless otherwise agreed by the parties, either party may amend or supplement his claim or defence during the course of the arbitral proceedings, unless the arbitral tribunal considers it inappropriate to allow the amendment or supplement having regard to the delay in making it."

(emphasis supplied) [Section 2](#) contains the definitions. Sub-section (9) clarifies that except in [sections 25\(a\)](#) and [32\(2\)\(a\)](#), any reference in the Act to a 'claim' will apply to a 'counter-claim'. The said sub-section reads thus: "(9) Where this Part, other than clause (a) of [section 25](#) or clause (a) of sub-section (2) of [section 32](#), refers to a claim, it shall also apply to a counter-claim, and where it refers to a defence, it shall also apply to a defence to that counter-claim."

14. It becomes necessary to mention this here, as limitation is one of the grounds on which challenge to impugned award in instant OP is predicated.

15. In the aforesaid notice dated 24.04.2017, where NBFC invoked the arbitration Clause, monies said to be due from petitioners after adjusting the sale proceeds of said Car was claimed. As mentioned supra, the total loan amount is Rs.4 lakhs, said Car was repossessed in four months i.e., on 14.03.2012 itself during which period, some monthly instalments were paid and there is no material to show that the said Car was sold only for Rs.2,35,000/-, but it was certainly not sold for any sum more than Rs.2,35,000/-. All these are on merits of the matter and these are factual aspects of the matter which this Court will not examine in detail. However, these details are set out only for better appreciation of the instant order.

16. Under the aforesaid circumstances, AT entered upon reference and passed the impugned award, wherein it was *inter alia* held that petitioners are liable to pay a sum of Rs.2,86,418/- together with interest at the rate of 18% per annum (hereinafter 'p.a.' for brevity) from 21.02.2018 till the date of realisation. To be noted, this Court is informed that 20.02.2018 is the date of

amended claim statement and therefore, AT has ordered future interest at the rate of 18% p.a. from the next date i.e., 21.02.2018. Besides this, 50% of the arbitrators fees and cost of arbitral proceedings have also been imposed on the petitioners. In other words, petitioners have been mulcted with 50% of the fee of Arbitrators and the costs of arbitral proceedings.

17. Under the aforesaid circumstances, instant OP has been filed, as mentioned supra under Section 34 of A & C Act.

18. Mr.C.D.Sugumar, learned counsel on record for petitioners submits that his challenge to the impugned award is three fold and the three fold submissions can be summarised as follows:

(a) claim of NBFC is hopelessly barred by limitation and AT erred in not holding that the claim is barred by limitation owing to which the impugned award is liable to be set aside as being in conflict with public policy of India as it is in contravention with fundamental policy of Indian law.

(b) Though the petitioners, as respondents before AT, have filed counter affidavit as well as written statement and though this has been noticed by AT in the impugned award itself, the same has not been considered at all, owing to

which, AT has not treated both parties alike i.e., with equality and the impugned award is liable to be set aside being in contravention with fundamental policy of Indian law which is one of the juristic facets of the same being principles of natural justice which has to be tested on *audi alteram partem*. It was emphasised and highlighted that this principle has been built into A & C Act in the form of Section 18.

(c) Petitioners have raised an issue in the counter statement itself that they did not know the contents of the said loan agreement and they had signed on the dotted lines without knowing the contents and therefore, there is no valid arbitration agreement between the parties.

19. This Court now embarks upon the exercise of considering the three grounds of attack.

20. With regard to limitation, as already alluded to supra, the loan agreement is dated 12.11.2011, the said Car was seized in four months therefrom on 14.03.2012 and it was sold on 05.04.2013, but the date of commencement of arbitral proceedings can at best be 24.04.2017 and not

before that. This Court takes 24.04.2017 as the notional date of commencement of arbitral proceedings, as the date of acknowledgement for receipt of 24.04.2017 notice by the petitioners is not available. The language in which Section 21 of A & C Act is couched is as follows:

'21. Commencement of arbitral proceedings

Unless otherwise agreed by the parties, the arbitral proceedings in respect of a particular dispute commence on the date on which a request for that dispute to be referred to arbitration is received by the respondent.'

21. It is clear from the language in which Section 21 of A & C Act is couched that the date on which the notice invoking arbitration is received by the noticees is the date of commencement of arbitral proceedings. To be noted, term 'respondent' occurring in Section 21 of A & C Act is referred to as 'noticee'.

22. In the instant case, as both parties are not able to give the date on which the notice was received by the noticees/addressees, this Court deems it appropriate to take 24.04.2017 as the notional date of commencement of arbitral proceedings as obviously, the noticees, who are petitioners 1 and 2 before this Court in the instant OP, could not have received this notice prior to the notice itself.

23. To be noted, taking this notional date of 24.04.2017 as the date of commencement of arbitral proceedings is acceptable to both sides as it is nobody's case that arbitration clause was invoked prior to 24.04.2017 or by way of any communication prior to 24.04.2017.

24. This takes us to cause action which, at best arose on 05.04.2013 when the said Car was sold for Rs.2,35,000/-. Even the date of seizure of said Car i.e., 14.03.2012 can be construed as the date of cause of action, but in the instant case, even if the date of sale on which the actual amount which NBFC could have claimed was clearly available to NBFC i.e., 05.04.2013, is taken, the claim is barred by limitation owing to Article 55 of the Limitation Act, 1963.

25. Article 55 of the Limitation Act, 1963 reads as follows:

<i>Description of suit</i>	<i>Period of limitation</i>	<i>Time from which period begins to run</i>
55. For compensation for the breach of any contract, express or implied not herein specially provided for	Three years	When the contract is broken or (where there are successive breaches) when the breach in respect of which the suit is instituted occurs or (where the breach is continuing) when it ceases.

26. There is no dispute or disagreement before this court that no abridged time frame had been agreed for commencement of arbitral proceedings. Therefore, Section 43(1) of A & C act would apply and Section 43(1) of A & C Act reads as follows:

'43(1) The Limitation Act, 1963 (36 of 1963), shall apply to arbitration as it applies to proceedings in Court.'

27. Limitation is founded on public policy and this has been clearly laid down by the Hon'ble Supreme Court in **Maniben Devraj Shah Vs. Municipal Corporation of Brihan Mumbai** reported in (2012) 5 SCC 157. Relevant portion of Maniben Devraj Shah case is paragraph 14 and that portion of paragraph 14 reads as follows:

'14. We have considered the respective arguments/submissions and carefully scrutinised the record. The law of limitation is founded on public policy. The Limitation Act, 1963 has not been enacted with the object of destroying the rights of the parties but to ensure that they approach the Court for vindication of their rights without unreasonable delay. The idea underlying the concept of limitation is that every remedy should remain alive only till the expiry of the period fixed by the legislature.....'

As limitation is founded on public policy, entertaining a claim beyond the

period of limitation and passing an award is clearly in conflict with public policy of India and as it is in contravention of fundamental policy of Indian law.

28. This takes us how the aspect of limitation has been dealt with by the AT in the impugned award. This is contained in paragraph (IV) of the impugned award, which reads as follows:

'(IV) Limitation & Jurisdiction

It is seen from the documents filed that the agreement has been entered between the claimant and the respondents at the claimants office in Chennai and the cause of action for the Arbitration to resolve the dispute arose at Chennai, which is agreed between the parties vide arbitration clause 23 in the Loan Agreement. The claim petition filed by the claimant is well within the time of limitation period.'

29. A perusal of the aforesaid paragraph would reveal that limitation has not been examined by AT. No reason has been given. There is no discussion. In this context, as rightly pointed out by learned counsel for petitioners, limitations ought to have been examined even if it has not been set up as a defence owing to Section 3 of Limitation Act, which reads as follows:

'3. Bar of limitation_(1) Subject to the provisions contained in Sections 4 to 24 (inclusive), every suit instituted, appeal preferred, and application made after the prescribed period shall

be dismissed, although limitation has not been set up as a defence.

(2) For the purposes of this Act,-

(a) A suit is instituted, _

(i) in an ordinary case, when the plaint is presented to the proper officer;

(ii) in the case of a pauper, when his application for leave to sue as a pauper is made; and

(iii) in the case of a claim against a company which is being wound up by the Court, when the claimant first sends in his claim to the official liquidator;

(b) any claim by way of a set off, or a counter claim, shall be treated as a separate suite and shall be deemed to have been instituted _

(i) in the case of a set off, on the same date as the suit in which the set off is pleaded;

(ii) in the case of a counter claim, on the date on which the counter claim is made in Court;

(c) an application by notice of motion in a High Court is made when the application is presented to the proper officer of that Court.'

30. To be noted, Section 3 of Limitation Act, 1963 has to be read in conjunction with Section 43(1) of A & C Act, which has already been extracted supra.

31. With regard to fundamental policy of Indian law and with regard to testing the impugned award qua being in contravention of fundamental policy

of Indian law, the leading Judgment/case laws in this regard is **ONGC Ltd. v. Western Geco International Ltd.**, reported in **(2014) 9 SCC 263**. To be noted, *Western Geco* has been subsequently reiterated by Hon'ble Supreme Court in **Associate Builders Vs. Delhi Development Authority** reported in **(2015) 3 SCC 49**.

32. While so reiterating, for testing the impugned award qua being in conflict with public policy of India and in contravention of fundamental policy of India law, the Hon'ble Supreme Court culled out three juristic principles viz., judicial approach, principles of natural justice and irrationality/perversity.

33. The test for three juristic principles have also been laid down. The test as laid down by the Hon'ble Supreme Court is, for judicial approach, it is fidelity of judicial approach, for adherence to natural justice principle, the test is *audi alteram partem* and reasons have to be given. For testing irrationality/perversity, the test is the time honoured Wednesbury principle of reasonableness. In the instant case, in the light of the aforesaid cryptic one sentence in the impugned award with no reasons, no discussion (not even dates) regarding limitation, the first juristic principle with regard to lack judicial approach is attracted and the impugned award is clearly vitiated by

the same. The impugned award is also vitiated by irrationality/perversity, if Wednusberry principle of reasonableness is applied. In the light of the undisputed facts, which have been set out supra and in the light of the undisputed position that limitation is three years, it would certainly not be reasonable for any Tribunal to conclude that the claim is within the limitation period. Therefore, this Court has no hesitation in holding that the impugned award is liable to be set aside for being in conflict with public policy as it is in contravention with fundamental policy of Indian law.

34. With regard to *audi alteram partem* as mentioned supra, the counter statement and the written submissions made by the petitioners in their capacity as respondents before AT has not been considered at all. One specific submission in the counter as articulated in paragraphs 4 and 6 reads as follows:

'4. I further submit that I paid my EMI of the said Car for the month of December 2011 and January 2012. Suddenly on 14.03.2012 the men of the claimant took the Car, which was parked in my house, when I was not in the house. The Car was taken by the Claimant without any information before or after. I submit that I was upset by the act of the Claimant and I suffered fits. I was admitted in the hospital in Ramanathapuram, thereafter I was admitted in the Ramachandra Medical College Hospital in Chennai, wherein I was advised by the doctors not to stress myself and I should lead worry free life. I submit that my family members also advise me that not to take any steps in the

issue of the Car. Hence, I did not proceed further to reclaim the Car therefore continued to pay the EMI does not arise.

....

6. I further submit that during the processing of the loan application, the claimant obtain some signature from me since the entire loan agreement was printed in English, I did not understand the contention of agreement and the Claimant were also not read out the contention of the agreement in Tamil. I did not see the Arbitration clause in agreement moreover I did not receive any amount in cash from the Claimant, the cost of Santro Car was not Rs.4,00,000/- at that time. I submit that when things being so, the disbursement loan amount of Rs.4,00,000/- is baseless and concocted. On that basis the Claim made by the Claimant is not maintainable. I advised to state that the claim is barred by limitation since, I defaulted in January 2012 itself and the Claimant was not take any steps to recover the alleged amount from me till 3 years from the date of default in paying the EMI.'

35. Though AT makes a mention in the impugned award about the counter statement and the written statement, this has not been discussed at all. Besides the time honoured *audi alteram partem* principle being violating, this is also a case where there is infarct of Section 18 of A & C Act, which postulates that the parties shall be treated with equality and each party shall be given full opportunity to present his case. This is a very sanctus principle. This sanctus principle is clearly traceable to *audi alteram partem* and therefore, the second juristic principle pertaining to contravention of

fundamental policy of Indian law viz., principles of natural justice which has to be tested on *audi alteram partem* is also is attracted and therefore, the award is liable to be set aside.

36. The last submission on behalf of the petitioners is with regard to there being no arbitration clause at all. Learned counsel for NBFC pointed out that the signature is in English and therefore, it cannot be gainsaid now by petitioners that they signed on the dotted line and therefore, there is no arbitration clause at all. Though this submission deserves serious consideration, the point is AT in the impugned award has not considered this aspect at all. When a party takes a stand that there is no arbitration clause between the parties, AT being a creature of contract and a private Tribunal, it is clearly a jurisdictional issue and it is necessary for the AT to advert to the same. Even if this has not been raised by a Party under Section 16 of the A & C Act, it can be raised at the stage of Section 34 of A & C Act by a party and this has been laid down in ***Lion Engineering Case (M/s.Lion Engineering Consultants Vs. State of M.P & Ors*** reported in **2018 SCC Online SC 327**) wherein earlier principle laid down in this regard in ***MSP Infrastructure Ltd. vs. Madhya Pradesh Road Development Corporation Ltd.*** reported in **(2015) 13 SCC 713** was set aside.

37. Owing to all that have been set out supra, this Court is convinced that this is a fit case for judicial intervention qua impugned award as a clear case has been made out for setting aside the impugned award *inter alia* for being in conflict with public policy of India as it is in contravention with fundamental policy of Indian law.

38. As a sequitur to the narrative supra, OP is allowed. Considering the nature of the submissions, parties are left to bear their respective costs.

vsm

Speaking Order
Index : Yes/No
Internet: Yes/No

03.04.2019

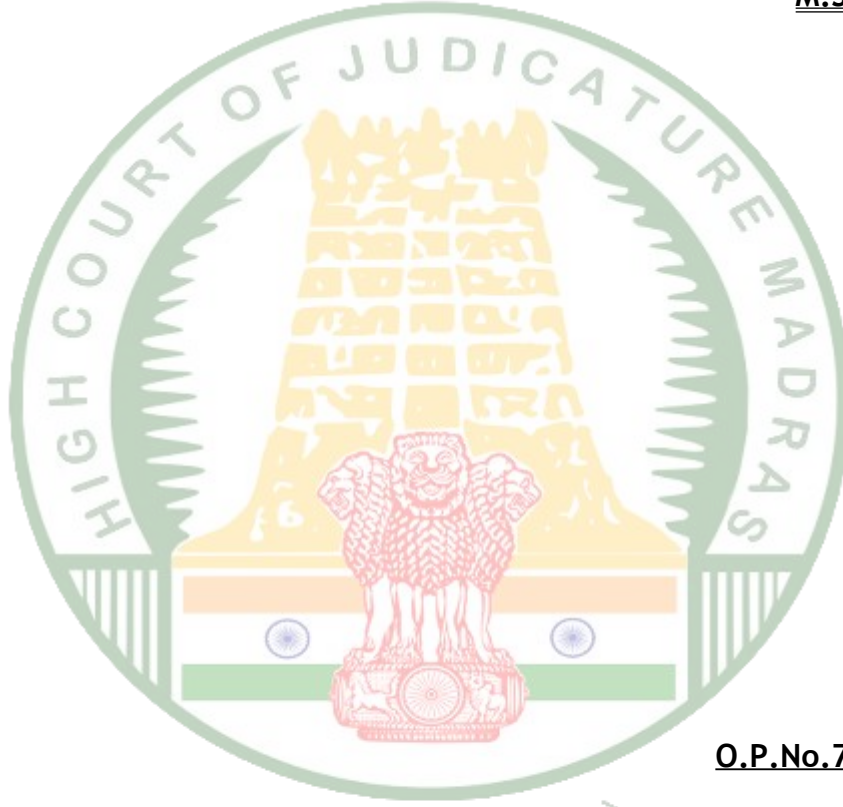


सत्यमेव जयते

WEB COPY

M.SUNDAR. J.,

vsm

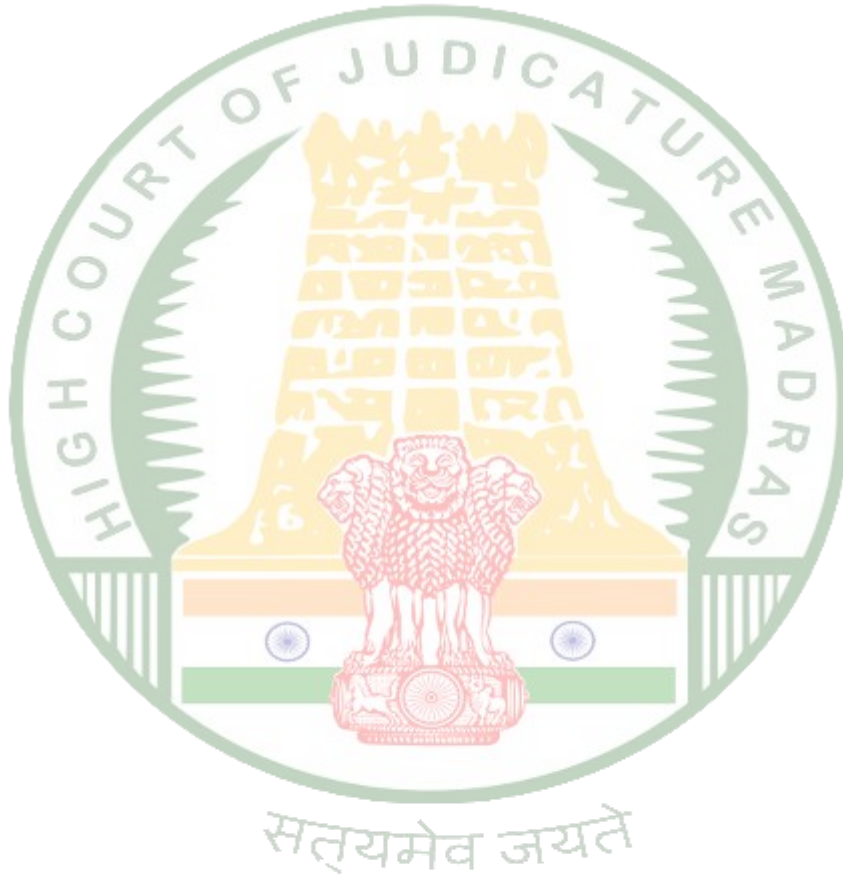


O.P.No.783 of 2018

सत्यमेव जयते

WEB COPY

03.04.2019



WEB COPY