

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.08.2019

CORAM :

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

A. No.6277 of 2019

and

A. No.6279 of 2019

P.Adhavan

... Applicant
in both applications

Vs.

1.M/s.Sundaram Finance Limited,
No.21, Patullos Road,
Chennai - 600 002.

2.A.Kalaiselvi

... Respondents
in both applications

Prayer in A. No.6277 of 2019 : Application filed under Order XIV Rule 8 of Original Side Rules r/w. 37(2) (b) of the Arbitration and Conciliation Act, 1996, praying to set aside the order dated 04.07.2019 made in I.A.No.152 of 2018 in Arbitration No.SSP/SF/111/2018 and to direct the respondent company to pay compensation, loss of income incurred by the applicant from the date of taking repossession till the date of handover at the rate of Rs.12,000/- per day and to take necessary legal action against the respondent company for the illegal possession taken by them and contempt of the Arbitral Tribunal committed by the respondent company.

Prayer in A. No.6279 of 2019 : Application filed under Order XIV Rule 8 of Original Side Rules r/w. 37(2) (b) of the Arbitration and Conciliation Act, 1996, to stay all

further proceedings of the arbitration case in Arbitration No.SSP/SF/111/2018 pending appeal, till the disposal of the appeal.

For Petitioner : Mr.M.Ganesh

O R D E R

These applications have been filed against the order of the learned Arbitrator, dismissing the application of the petitioner claiming compensation for hypothecation and repossession of petitioner's vehicle (Ashok Leyland Lorry bearing Registration No.TN-20-BS-8868) by the 1st respondent for a period of 101 days.

2.It is the main contention of learned counsel for the petitioner that, since, the seizure was effected pending arbitral proceedings, the seizure is invalid. Though, the vehicle has been returned to the petitioner as per direction of the Court, inasmuch as the seizure had been effected during the pendency of arbitral proceedings without leave of the Court, it has no validity and therefore, the petitioner is entitled for getting compensation for seizure and illegal repossession of the vehicle by the 1st respondent for more than 100 days, which has caused loss of income to the petitioner.

However, the learned Arbitrator has not considered this

aspect and has dismissed the petitioner's application. Therefore, the order of the learned Arbitrator is liable to be set aside.

3. Heard the learned counsel for the petitioner and perused the materials on record.

4. It is well settled that the scope of interference with an award of Arbitral Tribunal under Section 34 of the 'Arbitration and Conciliation Act, 1996' ('the Act' for brevity), is very limited. Unless there is any patent illegality or violation of public policy found in an award, this Court cannot interfere with the award under Section 34 of the Act. On a perusal of the entire order of the learned Arbitrator, it is seen that the learned Arbitrator, in Point Nos.1 and 2, has specifically held that the vehicle was hypothecated in view of the contractual terms. Further, the learned Arbitrator has factually considered the entire aspects of the case of the petitioner and has held that the petitioner has failed to establish the alleged loss of income incurred by him. Since the learned Arbitrator has recorded factual findings, this Court cannot re-appreciate the entire evidence.

<https://hcservices.ecourts.gov.in/hcservices/> In view of the above, I do not find any illegality

or violation of public policy in the impugned order passed by the learned Arbitrator. Therefore, the application in A. No.6277 of 2019 is dismissed and the impugned order dated 04.07.2019 is confirmed. Consequently, application in A.No.6279 of 2019 is closed.

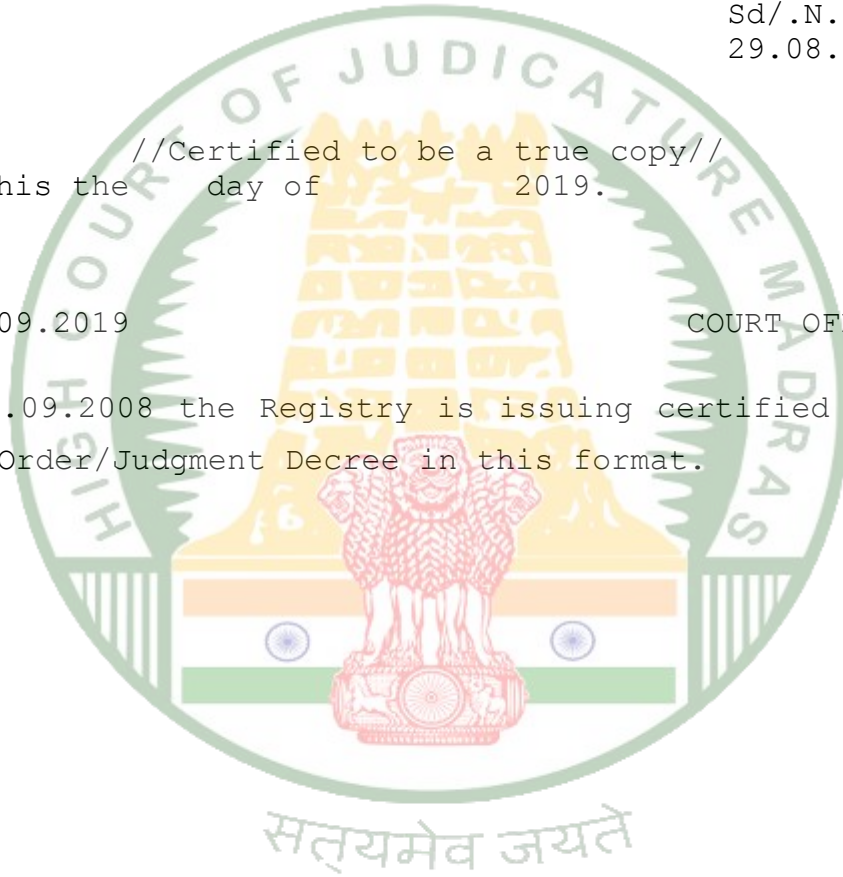
Sd/.N.S.K.J
29.08.2019

//Certified to be a true copy//
Dated this the day of 2019.

R.s/05.09.2019

COURT OFFICER

From 25.09.2008 the Registry is issuing certified copies of the Order/Judgment Decree in this format.



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