

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

WEDNESDAY, THE 13TH DAY OF NOVEMBER 2019

THE HON'BLE MR. JUSTICE SENTHILKUMAR RAMAMOORTHY

A. No.2043 of 2017

in

O.P. Diary. No.4289 of 2017

In the matter of Arbitration
and Conciliation Act 1996

and

In the matter of Pradeep Kumar
and Mr.Ranbir Singh and in the
matter of arbitration
agreement dated 18.04.2013

J.N.N.MATRICULATION SCHOOL
Rep.by its Chairman,
Usha Garden, 90, Kannigaipair,
Uthukottai Taluk,
Thiruvallur-601 102,
Chennai.

..Applicant/Petitioner

-vs-

1. M/S.EDUSMART SERVICES PRIVATE LIMITED,
L-74, Mahapalpur Extension,
New Delhi-110037.
Rep.by its Authorised Representatives
Mr.S.Mano. S/o.Subramani

2. M/S.EDUCOMP SOLUTIONS LIMITED,
1211, Padma Tower-1,
5,Rajendra Palace,
New Delhi-110008.

Rep.by its Authorised Representatives

Mr.S.Mano. S/o.Subramani

.. Respondents/Respondents

Application praying that this Hon'ble Court be pleased
to condone the delay of 378 days in filing this Original
Petition to set aside the Exparte award dated 19.10.2015
passed in ARB/SS/173/2015.

This application coming on this day before this court

<https://hcservices.ecourts.gov.in/hcservices/>

for hearing, the court made the following order:

Application No.2043 of 2017 is filed to condone the

delay of 378 days in filing this O.P. to set aside the ex-parte award dated 19.10.2015.

2.By an earlier order dated 16.09.2019, the learned Arbitrator was directed to submit the original records relating to the arbitration proceedings before this Court on or before 30.09.2019. However, the said order copy could not be served on the learned Arbitrator and was returned with an endorsement "No such person in this address". Therefore, the present application is being proceeded with without the records from the learned Arbitrator.

3.The learned counsel for the applicant submitted that after the appointment of the sole arbitrator, the petitioner received notice on 31.12.2014 and upon receipt of the notice, filed the petition under Sections 14 and 15 of the Arbitration Conciliation Act, 1996 in order to set aside the said appointment. He further submitted that notice was ordered in the said petition on 12.08.2016. Thereafter, he submits that the petitioner did not receive notice from the Arbitral Tribunal, and in fact, did not receive the impugned ex-parte Arbitral award dated 19.10.2015 also.

4.The contention of the learned counsel for the applicant/petitioner is that the petitioner received notice in EP.No.210 of 2016 and entered appearance in the said proceedings on 11.11.2016. After entering appearance in the said EP, the petitioner became aware of the impugned arbitral award. Thereafter, the present OP.D.No.4289 of 2017 was presented on 31.01.2017.

5.The learned counsel for the applicant/petitioner relied upon the judgement of the Hon'ble Supreme Court in the case of Benarsi Krishna Committee and others Versus Karmyogi Shelters Private Limited reported in (2012) 9 SCC 496 wherein, it was held that the receipt of signed copy of the Arbitral award by the party, as per Section 31(5) of the Arbitration and Conciliation Act, is crucial for the purpose of computing the period of limitation.

maintainability provided within time.

the Registry to number and list OP.D.
it is otherwise in order.

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it is otherwise in order.

Sd/ .S.K.R.J.

13.11.2019

//Certified to be a true copy//

Dated this the th day of 2019.

SU./20.11.2019

COURT OFFICER

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