

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.01.2020

C O R A M

THE HONOURABLE Ms.JUSTICE P.T.ASHA

O.P.No.444 of 2011

K.Pappu

.. Petitioner

-Vs.-

1.M/s.India Cements Capital Limited,
Corporate Office No.38, Sterling Road,
Nungambakkam, Chennai 600 034.

2. K.Nallathambi.

3. N.Mallika

4. K.Ravi Ananda Padmanaban

.. Respondents

Original Petition under Section 34 of the Arbitration and Conciliation Act, 1996 praying to set aside the award dated 14.05.2009 made by the fourth respondent in K.R.A.13 to 17 of 2004.

For petitioner

... Mr.R.Karthikeyan

For Respondent-1

... Mr.K.Rajasekar

O R D E R

The Original Petition is filed to set aside the award dated 14.05.2009 passed by the fourth respondent-Arbitrator.

2. The award has been passed by the learned Arbitrator on the basis of a Memorandum of Compromise, which was entered into between the claimant-Finance Company and the husband of the petitioner and the respondents 2 and 3 herein. The memorandum of compromise was executed by the petitioner's husband on 02.02.2009 and the award on the basis of the compromise was passed on 14.05.2009. The copy of the Memorandum of Compromise had been filed before the learned Arbitrator on 09.03.2009. Ultimately, the award came to be passed on 14.05.2009.

3. Since the terms of the compromise are not complied with, the claimant had taken execution proceedings in R.E.P.No.95 of 2010 before the District Court at Namakkal for attachment and sale of the property belonging to the first respondent. On receipt of the summons in the above execution petition, the petitioner herein has invoked the jurisdiction of this Court under Section 34 of the Arbitration and Conciliation Act and filed the present petition.

4. The main ground of challenge to the above award is that the award has been passed after the death of the third respondent to the arbitral proceedings, namely, the husband of the petitioner, who

had died on 02.04.2009. This was only the ground of challenge.

5. Heard the learned counsels on either side and perused the materials available on record.

6. From the records, it is clearly evident that not only has the parties signed the memorandum of compromise on 02.02.2009 but have also presented the same before the learned Arbitrator on 09.03.2009 much prior to the death of the third respondent and it is on the basis of the compromise, the award has been passed.

7. I do not find any grounds for challenging the said award that has been passed. Accordingly, the Original Petition stands dismissed. No costs.

सत्यमेव जयते

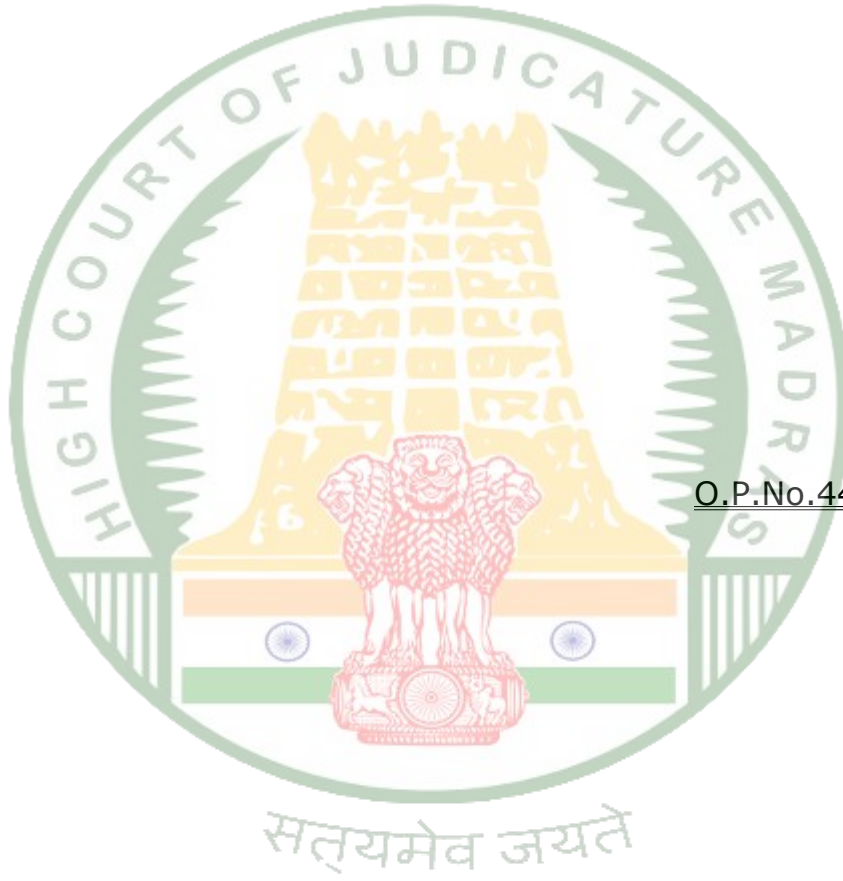
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