

OP.No.182 of 2015

M.SUNDAR.J.,

Captioned OP was disposed of by an order dated 21.07.2020, it is listed today under the caption 'FOR BEING MENTIONED' at the instance of Registry saying that the language in which the prayer has been couched causes difficulty in drafting. Today, Ms.Preethi S.Arasu and Mr.A.Mohan, learned counsel for petitioner and respondent respectively are before me in this web hearing on a video conferencing platform.

2. Prayer is couched in a language, which is as follows:

'Petition filed under Section 34 of the Arbitration and Conciliation Act, 1996 praying to set aside the Award dated 17/09/2014 and thereby allow the petitioner's claim of Rs.9,99,000/- (Rupees Nine Lakh Ninety Nine Thousand only) as prayed for before the Hon'ble Arbitral Tribunal along with interest, cost in entirety.'

3. Therefore in the opening paragraph of the order itself, it has been made clear that captioned OP is a mere challenge to dislodge/set aside an arbitral award dated 17.09.2014. It is nothing more nothing less. Opening

paragraph (first paragraph) of my order reads as follows:

'Instant application has been given the nomenclature 'Original Petition' ('OP' for brevity) and it is under Section 34 of 'The Arbitration and Conciliation Act, 1996 (Act 26 of 1996)', which shall hereinafter be referred to as 'A and C Act' for the sake of brevity, with a prayer to dislodge/set aside an 'arbitral award dated 17.09.2014' (hereinafter 'impugned award' for brevity) made by an 'Arbitral Tribunal' ('AT' for brevity), constituted by a sole Arbitrator.'

4. Concluding paragraph i.e., paragraph number 25 reads as follows:

'25. In the light of the narrative thus far, instant OP is allowed. There shall be no order as to costs.'

5. Therefore, when the opening and concluding paragraphs are read in conjunction with each other, OP allowed without costs as mentioned in the concluding paragraph means that the impugned award is set aside. Nothing more, nothing less. This is clear as daylight. It is not necessary to add or substitute a single word to 21.07.2020 order.

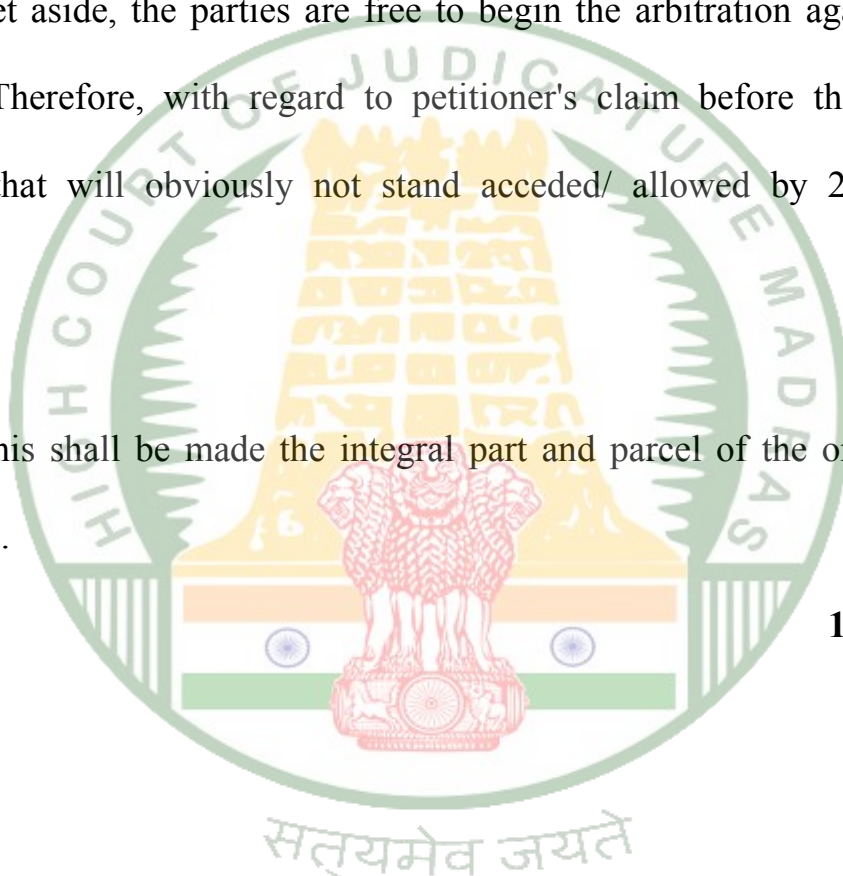
6. Be that as it may, for the purpose of abundant clarity and benefit of Registry, it is set out that consequences of challenge to an arbitral award (under Section 34 of The Arbitration and Conciliation Act, 1996) being

allowed has been settled by Hon'ble Supreme Court in **Mcdermott International Inc., Vs. Burn Standard Co., Ltd., and Others** reported in **(2006) 11 SCC 181** wherein, it was made clear that in cases where an arbitral award is set aside, the parties are free to begin the arbitration again if it is desired. Therefore, with regard to petitioner's claim before the Arbitral Tribunal, that will obviously not stand acceded/ allowed by 21.07.2020 order.

7. This shall be made the integral part and parcel of the order dated 21.07.2020.

kmi

10.09.2020

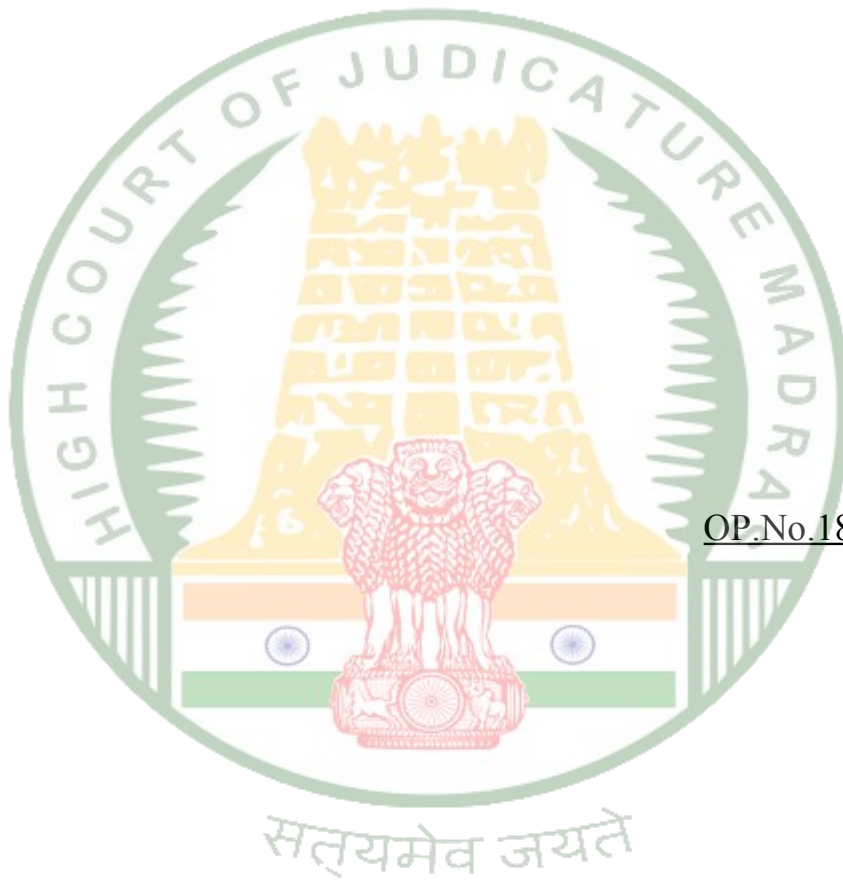


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