

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED: 27.02.2020**

CORAM

**THE HONOURABLE Ms. JUSTICE P.T. ASHA**

OP.No.634 of 2018

Mr. P.V. Janardhanam

...Petitioner

Vs

1. M/s. Shriram City Union Finance Ltd.,  
Represented by its Authorized Representative  
Having Office at No.123, Angappan Naickan St,  
Chennai-600001  
and its inter alia branch at Ramasamy Avenue,  
Vannandurai, Chennai.

2. M/s. Coopers Concept Foundation Pvt. Ltd.,  
No.38, Rameswaram Road,  
T. Nagar, Chennai-17.

3. Mrs. P.S.Jayalakshmi सत्यमेव जयते

4. Mrs. P.J. Sujatha

...Respondents

WEB COPY

**PRAYER:** Original Petition is filed under Section 34 of Arbitration and Conciliation Act 1996 praying to set aside the Award of Sole Arbitrator Shri.C.A.Ravichandiran the constituent of Arbitration Tribunal at Chennai vide.A.C.P.No.(EF/CAR) 287/2016 dated 9.01.2017.

For Petitioner : Mr. V. Manoharan

For Respondent : Mr. K.V. Anantha Krishnan for R1

**ORDER**

The respondent before the Arbitral Tribunal is the petitioner before this Court. The OP is filed challenging the Award dated 09.01.2017.

2. The brief facts leading to the filing of the above OP are as follows:

The petitioner herein had borrowed a loan from the first respondent financial company to the tune of Rs.35,00,000/-. The said sum was to be repaid in 36 equal monthly instalments of Rs.1,45,600/- each commencing from 10.09.2012. The terms of the agreement clearly stipulate that in the event of a default, the default amount would carry

additional interest at the rate of 3 per cent per month. The petitioner has cleared few instalments, however ultimately there has been a default and as on the date of invoking the arbitration proceedings, the petitioner herein was due and owing Rs.13,10,400/- towards the principal and Rs.14,419/- towards overdue charges. The claimant therefore issued notice to the petitioner calling upon them to clear the said dues. However there was no response from the petitioner herein. Ultimately the first respondent claimant had issued the pre-arbitration notice dated 11.01.2016 and despite receiving the notice, the petitioner had not cared to either make the payment or respond, which led to the invoking of arbitration proceedings.

3. The Arbitrator had issued notice to the petitioner herein. A perusal of the procedural history contained in the Award would clearly show that all the four respondents/petitioner herein had been served and they choose not to appear before the Arbitral Tribunal. Subsequently, they filed set aside petition on 2.5.2016, which was allowed on 21.5.2016. Again they remained absent during further hearings. Therefore, they were again set ex parte on 8.8.2016. For

the second time they filed set aside petition, which was allowed. Even after this, they remained absent on several dates and ultimately for the third time they were set ex parte on 08.11.2016 and the matter was adjourned for evidence. The respondent/claimant had filed necessary documents along with the proof of service of notice and consequently on perusing the same, the Award came to be passed. The Arbitral Award is challenged by the petitioner only on the ground that notice has not been served on them and that the amount claimed was not as per the statement of accounts passed on which the accounts were not correct. A perusal of the Award would clearly indicate that all the respondents have been served and even after such service the respondent/petitioner herein have chosen not to appear before the Arbitral Tribunal and that apart on two earlier occasions they have been set ex parte and they had filed set aside petitions, which were allowed. However for the third time they remained absent and were set ex parte therefore they cannot contend that the Award was passed behind their back.

4. The second argument is with reference to the submission of

accounts, this court in a Section 34 Petition, cannot re-appreciate evidence unless a patent illegality is shown which in the instant case has not been pleaded. Therefore, I do not find any infirmity in the Award passed. Op is dismissed and the Award is confirmed.

**27.02.2020**

mrn

Index : Yes/No  
Speaking order/non-speaking order

To,  
1. M/s. Shriram City Union Finance Ltd.,  
Represented by its Authorized Representative  
Having Office at No.123, Angappan Naickan St,  
Chennai-600001  
and its inter alia branch at Ramasamy Avenue,  
Vannandurai, Chennai.

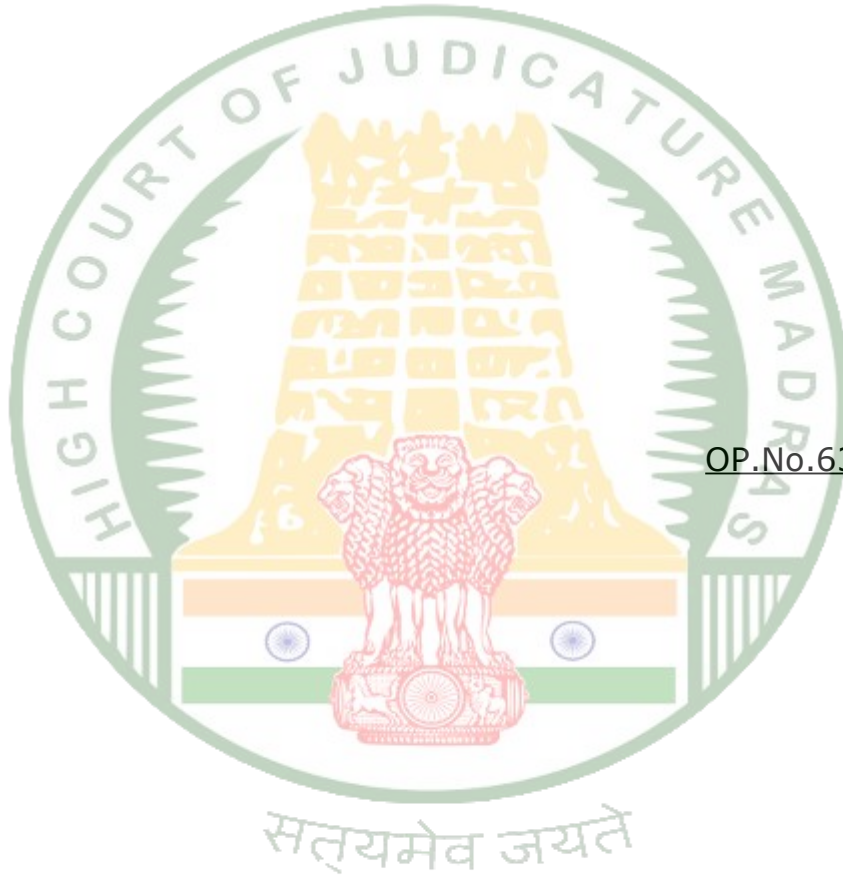
2. M/s. Coopers Concept Foundation Pvt. Ltd.,  
No.38, Rameswaram Road,  
T. Nagar, Chennai-17.

WEB COPY

OP.No.634 of 2018

**P.T.ASHA, J.,**

**mrn**



OP.No.634 of 2018

**WEB COPY**

**27.02.2020**