

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 28.09.2020

CORAM

THE HON'BLE Mr.JUSTICE M.SUNDAR

O.P.No.318 of 2014

1. Mr.K.Vara Prasad,
S/o.Mr.K.Ramarao,
Plot No.92, Madhava Nagar,
Biramuliguda, Pst-Lal Bahadur,
Secunderabad, Hyderabad-500 963.
2. Mrs.K.Vijayalaxmi,
Plot No.92, Madhava Nagar,
Karmanghat, LB Nagar,
Secunderabad-500 059.

... Petitioners

-Vs.-

1. M/s.Citicorp Finance (India) Limited,
Rep. by its Manager-Legal,
1st Floor, Angson Centre,
153, Greams Road, Near Thousand Lights,
Chennai-600 006.
2. Mr.K.S.Gowthaman,
Sole Arbitrator,
No.224-B, 4th Cross Street,
Natesa Nagar, Virugambakkam,
Chennai-600 092.
(R2 deleted in and by this order)

.. Respondents

This Original Petition filed under Section 34 of the Arbitration and

Conciliation Act, 1996, praying to set aside the award dated 17.03.2014 passed by the learned Arbitrator in Claim Petition No.KSG/CCFIL/2/2008 and allow the petition with exemplary cost.

For Petitioners : Mr.R.Venkatavarathan

For Respondent : Mr.S.Vasudevan

ORDER

Mr.R.Venkatavarathan, learned counsel on record for the two petitioners and Mr.S.Vasudevan, learned counsel on record for the contesting first respondent are before this virtual Court in a web hearing on a video conferencing platform.

2. To be noted, sole Arbitrator, who constituted the Arbitral Tribunal and made the impugned award, has been arrayed as second respondent, but second respondent will now stand deleted in and by this order.

3. Captioned Original Petition has been listed under the caption 'FOR REPORTING SETTLEMENT' today.

4. Aforementioned two learned counsel on record make a common

submission in unison that the matter has been settled between the two petitioners and the sole respondent (now) and they have reduced the terms of Compromise to a 'Joint Memo of Compromise dated 15.09.2020' [hereinafter 'said Jt.MOC' for the sake of clarity and convenience].

5. Both learned counsel make two common requests in unison and they are as follows:

- a. Personal presence of the parties may please be dispensed with owing to virtual hearing;
- b. Said Jt.MOC has been email filed, a hard copy of the same has been placed before this virtual Court, necessary Court fee has also been paid and therefore, the same may be recorded.

6. In the light of the trajectory the matter has taken, considering the nature of the matter, aforesaid two requests are acceded to.

7. Both learned counsel submit in unison that on recording the said Jt.MOC, impugned award dated 17.03.2014 will stand substituted by Jt.MOC. However, in the light of Clause 4 of said Jt.MOC, impugned award will stand

revived in place of Jt.MOC, if the default clause kicks in and starts operating.

8. Scanned copy of said Jt.MOC is as follows:



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS
(Ordinary Original Civil Jurisdiction)

O.P. No. 318 of 2014

against

Claim Petition No. KSG/ CCFIL/ 2/ 2008

In the matter of Arbitration and
Conciliation Act, 1996

AND

In the matter of Award passed by the
Arbitrator Mr. K.S. Gowthaman
dated 17.03.2014

1. **Mr. K. Varaprasad,**
S/o. Mr. K. Ramarao,
Plot No.92, Madhava Nagar,
Biramuliguda, Pst-Lal Bahadur,
Secunderabad, Hyderabad - 500 963.

2. **Mrs. K. Vijayalaxmi,**
Plot No.92, Madhava Nagar,
Karmanghat, LB Nagar,
Secunderabad - 500 059.

... Petitioners

Versus

1. **M/s. Citicorp Finance (India) Limited,**
Rep. by its Manager - Legal,
1st Floor, Angson Centre,
153, Greams Road,
Near Thousand Lights,
Chennai - 600 006.

2. **Mr. K.S. Gowthaman,**
Sole Arbitrator,
No.224-B, 4th Cross Street,
Natesa Nagar,
Virugambakkam,
Chennai - 600 092.

सत्यमेव जयते ... Respondents

JOINT MEMORANDUM OF COMPROMISE

The 1st Petitioner and the 1st Respondent hereinabove have entered into
the following Joint Memorandum of Compromise:

Pro LSK

For CITICORP FINANCE INDIA LTD.,

B. R. Babu

Assistant Manager-Legal (South).

- 1) The 1st Petitioner confirms that the Arbitral Award dated 17.03.2014 passed by the 2nd Respondent herein, i.e. the Learned Arbitrator Mr. K.S. Gowthaman, against which the present O.P. has been filed, is correct and binding on both the parties.
- 2) The 1st Petitioner herein is willing and ready to pay a sum of Rs. 3,60,000/- (Rupees Three Lakh Sixty Thousand Only) to the 1st Respondent towards full and final settlement, which is lesser than the amount under the Award dated 17.03.2014, to which the 1st Respondent has agreed.
- 3) The 1st Petitioner has further requested that the aforementioned sum of Rs. 3,60,000/- (Rupees Three Lakh Sixty Thousand Only) shall be paid in five (5) monthly installments at Rs. 72,000/- per month, which shall be paid on 15.10.2020, 15.11.2020, 15.12.2020, 15.01.2021 and 15.02.2021 by way of Demand Draft drawn in favor of Citicorp Finance India Ltd payable at Chennai. The 1st Respondent has no objections for the same and has agreed to receive the payments in five (5) equal installments as stated above.
- 4) In the event of any default committed by the 1st Petitioner in the payment of installments as above, the 1st Respondent shall be entitled to enforce the entire Award dated 17.03.2014 against the 1st Petitioner.

Pro JSA

For Attorney General, India (AGP),
Ministry of Law and Justice,
New Delhi-110002.

5) Both the parties hereto agree to bear their respective costs.

It is therefore prayed that this Hon'ble Court may be pleased to record this Joint Memorandum of Compromise in the above O.P. and dismiss the O.P. in terms thereof and thus render justice.

Dated at Chennai on this the 15th day of September, 2020.

proffer



For CITICORP FINANCE INDIA LTD.,

B. R. Balan
Assistant Manager Legal (Sov.00)

1ST PETITIONER

1ST RESPONDENT

सत्यमेव जयते

R. Venkatesh

Counsel for 1ST PETITIONER

[Signature]

Counsel for 1ST RESPONDENT

9. Aforementioned Jt.MOC shall form part of the order. This Court is informed by both the learned counsel that the sole respondent has launched execution by way of EP.No.192 of 2017 in Rengareddy District Court in State of Telangana, but counsel for sole respondent undertakes to have the same withdrawn in the light of this Jt.MOC being recorded.

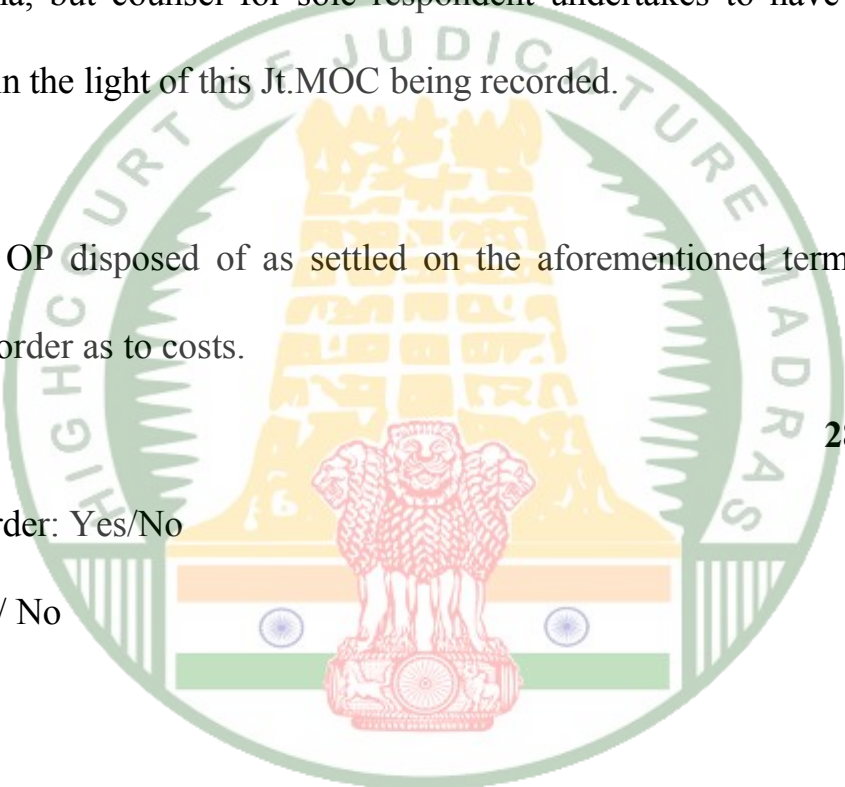
10. OP disposed of as settled on the aforementioned terms. There shall be no order as to costs.

28.09.2020

Speaking order: Yes/No

Index: Yes / No

kmi

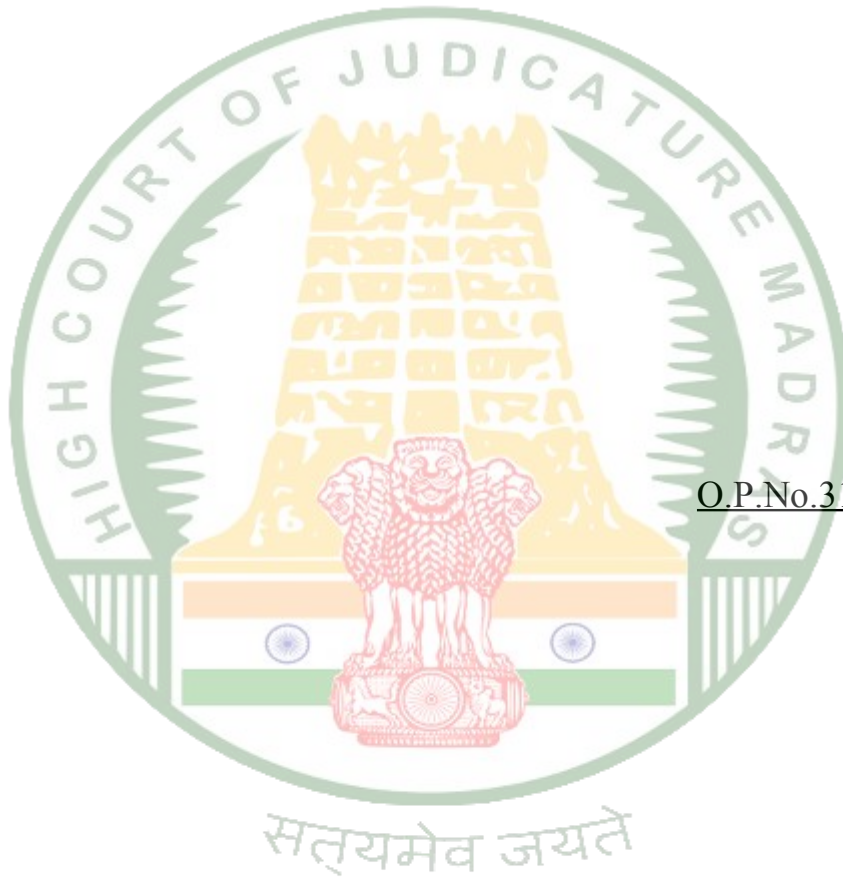
The seal of the High Court of Madras is a circular emblem. It features a central yellow temple gopuram (tower) with a red lion capital in front of it. The lion capital is set against a background of the Indian national flag's saffron, white, and green horizontal stripes, with the Ashoka Chakra in the center. The words 'HIGH COURT OF JUDICATURE MADRAS' are inscribed in a green circle around the central image. Below the seal, the motto 'सत्यमेव जयते' (Satyameva Jayate) is written in Devanagari script.

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M.SUNDAR, J.

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