

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.02.2020

C O R A M

THE HONOURABLE Ms.JUSTICE P.T.ASHA

O.P.No.822 of 2019

Prakash Tiwari

...Petitioner

-Vs.-

M/s.TVS Credit Services Limited.
Jayalakshmi Estates,
New No29, Old No.8, Haddows Road,
Nungambakkam,
Chennai – 600 006.

... Respondent

Prayer: Original Petition filed under Section 34 of the Arbitration and Conciliation Act, 1996 praying to set aside the Award dated 13.04.2019 passed by the Arbitrator between the petitioner and the respondent in the matter of A.C.P.(TVS).No.1457 of 2019.

For petitioner : Mr.P. Raja

For Respondent : Mr.G. Ashokapathy
for M/s.Pass Associates

ORDER

The respondent before the Arbitral Tribunal is the petitioner in the instant petition filed under Section 34 of the Arbitration and Conciliation Act, challenging the Award dated 13.04.2019. After

hearing the parties and perusing the original records of the Arbitrator, it is noticed that the claimant has not marked the documents by letting in oral evidence and also the Arbitral Tribunal has not given any reason as to why it was doing away with the oral hearing for the presentation of evidence.

2. Section 24(1) provides that the Arbitral Tribunal can decide whether to hold oral hearings for the presentation of evidence or for oral argument, or whether the proceedings can be conducted on the basis of documents and other materials unless the parties have agreed otherwise. There are two provisos to the said Section and the second proviso which has been introduced by virtue of the Amendment Act, 3/2016 would read as follows:

"Provided further that the arbitral tribunal shall, as far as possible hold oral hearings for the presentation of evidence or for oral argument on day to day basis, and not grant any adjournments unless sufficient cause is made out, and may impose costs including exemplary costs on the party seeking adjournments without any sufficient cause."

3.This makes its peremptory for the Arbitral Tribunal to give reasons when doing away with oral hearings, more particularly in a case where the Arbitral Tribunal was proceeded to hearing in the absence of the respondent also.

4.Both the counsels agreed for these reasons for the Award dated 13.04.2019 to be set aside for the above reason and is accordingly, set aside. However, request is made that the arbitration shall once again be heard by the very same Arbitrator.

5.In view of the above submissions, the Award dated 13.04.2029 in A.C.P.(TVS).No.1457 of 2019 is set aside. The parties agreed to once again initiate arbitral proceedings before the very same Arbitrator and they have also agreed to commence the Arbitral Proceedings from the stage of the petitioner herein filing the statement of defence. The Arbitrator shall thereafter proceed to dispose of the Arbitral Proceedings in keeping with the provisions of the Act. The said exercise shall be completed within a period of three months from the date of receipt of a copy of the Award.

6.The original records of the Arbitrator which has been produced pursuant to the orders of this Court is handed over to the learned counsel for the claimant who undertakes to reach it to the Arbitrator. The File has been handed over after getting necessary endorsements.

04.02.2020

Internet : Yes/No
Index :Yes/No
Speaking / Non-Speaking
mps

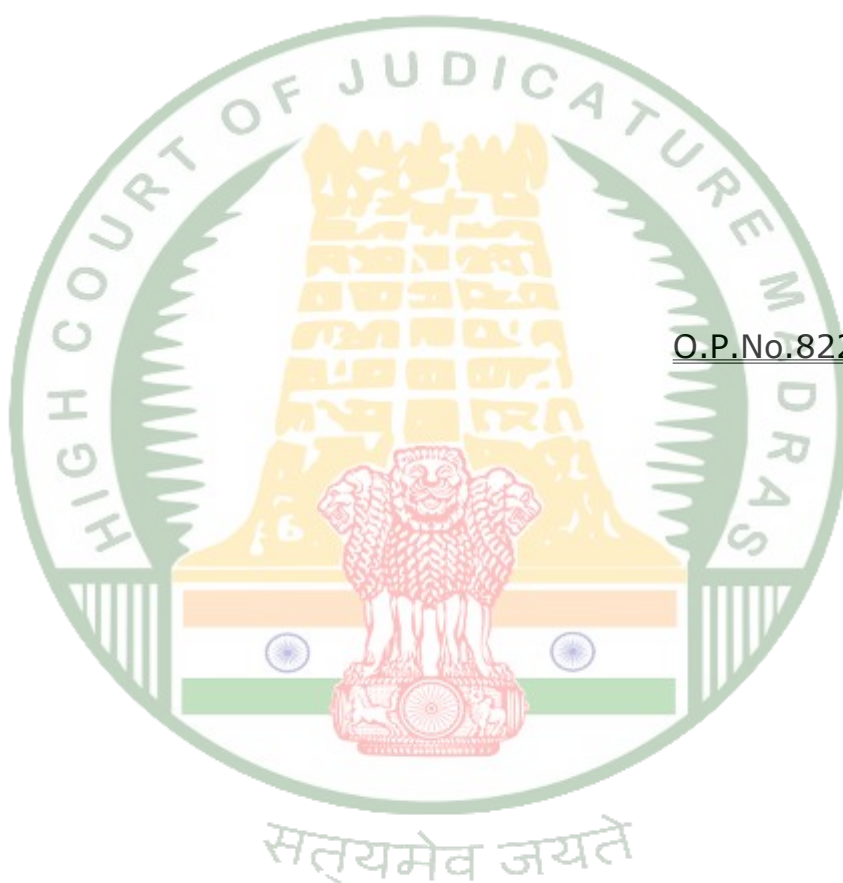


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P.T. ASHA. J,

mps



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