

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.03.2020

CORAM

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

C.M.A.No. 3266 of 2017

And

C.M.P.No. 20394 of 2017

Mr.S.Boopathi ... Appellant/2<sup>nd</sup> Respondent/Respondent-5

Vs.

1. M/s. Sundaram Finance Limited  
Rep. by its Assistant Manager (Legal)  
No.21, Pattullos Road,  
Chennai - 600 002. ... 1<sup>st</sup> Respondent/Petitioner/Claimant
2. M/s. Sree Manikanta Transports  
Door No.314, Shanthi Nagar  
Chinna Collapatty,  
Salem - 636 001 ... 2<sup>nd</sup> Respondent/1<sup>st</sup> Respondent/1<sup>st</sup>  
Respondent

PRAYER: This Civil Miscellaneous Appeal has been filed under Section 37 of the Arbitration and Conciliation Act 1996, against the Order passed in I.A.No. 1 of 2017 in Arbitration Case No. SF/PG/420/2016 Contract No. J018000317 on 27.10.2017 on the file of the Sole Arbitrator, Chennai.

For Appellant : M/s. K.M.Valsala  
For Respondents : No appearance

JUDGMENT

This Civil Miscellaneous Appeal has been filed as against the Order passed in I.A.No. 1 of 2017 in Arbitration Case No. SF/PG/420/2016 Contract No. J018000317 on 27.10.2017 on the file of the Sole Arbitrator, Chennai under Section 17 of the Arbitration and Conciliation Act 1996 and passing attachment before Judgment.

2. The learned Arbitrator has passed an order on the ground that the respondents, in the event of removing the vehicle beyond the jurisdiction that may lead to irreparable injury to the claimants. Accordingly, the conditional order is passed. As against which, this Civil Miscellaneous Appeal has been filed.

3. Despite service of notice and name printed in the cause list, none appears for the respondents.

4. A perusal of the records makes it very clear that this Civil Miscellaneous Appeal is arising out of the interim orders passed by the Sole Arbitrator appointed in respect of the dispute between the parties. During the arbitration proceedings, an interim order has been passed. As against which, the present Appeal has been filed, which is pending before this Court.

5. After this Appeal has been filed, it appears that a final award is also passed by the Arbitrator and it was challenged under Section 34 before this Court and by order dated 29 August 2019, this Court set aside the award passed by the Arbitrator and appointed a new arbitrator to pass fresh award. Therefore, when the Arbitrator itself was substituted and a new arbitrator was appointed and the entire award is set aside, any interim order passed by erstwhile arbitrator during the proceedings, cannot be sustained and the same is liable to be vacated.

6. Accordingly, without going into any issue, this Court is of the view that since the original award itself is set aside and a new arbitrator is appointed, the interim order passed by the then Arbitrator vis-a-vis award passed by him have been set aside, the interim order questioned in the appeal is also liable to be vacated.

7. Accordingly, the Civil Miscellaneous Appeal is allowed and the order of the sole arbitrator dated 27.10.2017 made in I.A.No. 1 of 2017 in Arbitration Case No. SF/PG/420/2016 (Contract No: J018000317) stands vacated. Consequently, connected Miscellaneous Petition is closed.

Sd/-

सत्यमेव जयते  
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

To  
The Presiding Officer (Arbitrator)  
Amman Illam, 778 4<sup>th</sup> Street,  
Judge colony, Kegithapuram, Kolathur, chennai-117.  
+1 cc to Mr.KS.Kumar,Advocate,sr.21916.

Mr(co)  
krd 25/6

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