



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

THURSDAY, THE 19TH DAY OF AUGUST 2021

THE HON'BLE MR. JUSTICE N. SATHISH KUMAR

O.P.No.57 of 2012

In the matter of Arbitration and
Conciliation Act 1996

and

In the matter of Sole Arbitrator,
Mr. Justice S. Jagadeesan (Retd)
Under the Arbitration Bye Laws,
Rules and Regulations of National
Stock Exchange of India Ltd.,
(NSE)

Arbitration Matter (A.M)No.F &
O/c-0033/2011

Mrs. S. Ramana,
No.58, 2nd Avenue,
Indira Nagar,
Chennai - 600 020.

... Petitioner

Vs

1. M/s. Religare Securities Ltd.,
No.D-3, P38, District Centre,
Saket, New Delhi – 110 017.

2. Mr. S. Jagadeesan,
Arbitrator,
National Stock Exchange of India Ltd.,
Regional Arbitration Centre,
Chennai.

... Respondents

Original Petition praying that this Hon'ble Court be pleased to set

aside the award Dt.31.08.2011 served on 08.09.2011 In the matter of Sole



Laws, Rules and Regulations of National Stock Exchange of India Ltd.,
(NSE), Arbitration Matter (A.M.) No. F&O/c-0033/2011.

This Original Petition coming on this day before this court for hearing through video conferencing in the presence of Mr.V.Manohar advocate for the petitioner herein and the 1st respondent herein not appearing in person or by advocate and upon reading the petition and the award dated 31/08/2011 filed herein and this court hearing observed that when the learned Arbitrator has considered entire evidence and merely because of some other view is possible, that cannot be a ground to interfere the award and this court finds that none of the grounds have been made out to interfere with the award and **it is ordered as follows:-**

That the O.P.No.57 of 2012 be and is hereby dismissed.

2) That there shall be no costs of this petition.

WITNESS THE HON'BLE MR. JUSTICE SANJIB BANERJEE,
CHIEF JUSTICE, HIGH COURT AT MADRAS AFORESAID, THIS THE
19TH DAY OF AUGUST 2021.

Sd/-

ASSISTANT REGISTRAR (O.S.II)

//Certified to be true copy//

Dated at Madras this the day of 2021.

COURT OFFICER(O.S.)

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ED

13.10.2021

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O.P.No.57 of 2012

ORDER:

DATED : 19/08/2021

THE HON'BLE MR. JUSTICE
N. SATHISH KUMAR

FOR APPROVAL: 26.10.2021

APPROVED ON: 27.10.2021



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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.08.2021

C O R A M

THE HON'BLE MR.JUSTICE N.SATHISH KUMAR

O.P. No. 57 of 2012

Mrs. S. Ramana,
No.58, 2nd Avenue,
Indira Nagar,
Chennai-600 020.

... Petitioner

Vs

1. M/s. Religare Securities Ltd.,
No.D-3, P38, District Centre,
Saket, New Delhi – 110 017.

2. Mr. S. Jagadeesan,
Arbitrator,
National Stock Exchange of India Ltd.,
Regional Arbitration Centre,
Chennai.

... Respondents

PRAYER : Original Petition filed under Section 34 of the Arbitration and Conciliation Act, 1996, praying to set aside the award dated 31.08.2011 served on 08.09.2011 in the matter of Sole Arbitrator, Mr. Justice S.Jagadeesan (Retd.) under the Arbitration Bye Laws, Rules and Regulations of National Stock Exchange of India Ltd., (NSE), Arbitration Matter (A.M.) No. F&O/c-0033/2011.

For Petitioner

: Mr.V.Manohar

For Respondents

: No appearance



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ORDER

(This case has been heard through video conference)

The challenge has been made against the award passed by the Sole Arbitrator dated 31.08.2011.

2. The brief facts leading to the filing of this Original Petition is as follows :-

The dispute has been referred as per the Bye Laws, Rules and Regulations of National Stock Exchange of India Ltd. (NSE). The 1st respondent/Trading member had approached the petitioner to become a client of the petitioner and to open an account for trading in securities. Thereafter, a Member-Client agreement dated 17.06.2009 has been executed between the parties and the same came to be extended by the parties. The claimant/1st respondent has sent his credits to the account of petitioner and the petitioner was running a debit balance in his account maintained by the 1st respondent. Subsequently, a notice of demand was sent to him for making the payment of a debit balance as on 02.05.2011 was Rs.1,68,572.07/-. As the same has not been paid, the matter was referred to the Arbitrator.



3. It is the contention of the Trading Member/1st respondent before learned Arbitrator that without his consent and approval, the trading has been done. In other words, the main contention is that the transactions which are subjected to arbitration were not based on the consent or the approval of trading. Besides, the transaction pertaining to new company was also not informed with the prospectus with regard to the company profile to apprise Trading Member's knowledge, which had caused huge loss to them. Hence, the matter was referred to arbitration.

4. The learned Arbitrator after hearing both sides and considering materials, had concluded that the trading was done without the consent of 1st respondent and passed an award for a sum of Rs.1,68,572/-. Learned Arbitrator also considered the documents adduced by the 1st respondent and also considering the nature of defence taken by the 1st respondent and found that the 1st respondent had also challenged the disputed share of the new company and they were aware of the trading. When the role of the Trading Member/1st respondent may be an adviser and it is only the decision of the 1st respondent before the Arbitrator would make its commitment. Therefore, learned Arbitrator had finally held that the liability cannot be fixed only on the Trading Member/1st respondent and the learned Arbitrator has also factually found that there were communications exchanged between the parties in electronic mode. When there were profits,



there is no dispute and when there was a loss occasioned, the dispute has been raised belatedly. When the learned Arbitrator has considered entire evidence and merely because of some other view is possible, that cannot be a ground to interfere the award. This Court finds that none of the grounds have been made out to interfere with the award. Hence, this Original Petition is liable to be dismissed. Accordingly, this Original Petition is dismissed. No costs.

Sd./- N.S.K.J.
19.08.2021

//Certified to be true copy//

Dated at Madras this the day of 2021.

COURT OFFICER(O.S.)

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