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IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

TUESDAY, THE 27TH DAY OF JULY, 2021

THE HON'BLE MR. JUSTICE N.SATHISH KUMAR

O.P.No.784 of 2012

In the matter of The Arbitration &
Conciliation Act 34 of 1996

and

In the matter of Arbitration Between
M/s.Cholamandlam Investment and
Finance Company Ltd.

-Vs-

D.Lakshmikanatha, No.445/2013,
Periyar Road, Gunamoorthy Nagar,
Ambattur, Chennai, Tamil Nadu
– 600 053 & Deenadayalan.

1.D.Lakshmikanatha,
No.445/2013, Periyar Road,
Gunamoorthy Nagar, Ambattur,
Chennai Tamil Nadu – 600 053.

2.Deenadayalan,
No.445/2013, Periyar Road,
Gunamoorthy Nagar, Ambattur,
Chennai Tamil Nadu – 600 053.

... Petitioners

-Versus-

1.M/s.Cholamandlam Investment,
and Finance Company Limited,
Rep.by Mr.Anbalagan,
Associate-legal Co-ordination No.2,
N.S.C.Bose Road, Chennai – 1.



2.Mr.K.S.Gowthaman
Advocate/Arbitrator,
New No.49, 224-B,
IV Cross Street, Natesa Nagar,
Virugambakkam,
Chennai – 600 092.

... Respondents

Original petition praying that this Hon'ble Court be pleased to set aside the arbitral award dated 30.06.2010 passed by Second Respondent in C.P.No.KSG/CHOLA/3376/09 and dismiss the claim of the First Respondent.

This original petition coming on this day before this court for hearing in the presence of Mr.D.Pradeep Kumar, Advocate for the respondent herein, and the petitioner herein, not appearing in person or by advocate and upon reading the petition and the award dated 30.06.2010 filed herein and this court having observed that this petition challenging the award is filed beyond the period of limitation as contemplated under section 34 of the Arbitration and Conciliation Act, besides the records also indicate that the petitioners have been served notice and they deliberately did not appear before the arbitrator, this court does not find any merits in this petition, it is ordered as follows:-

That the Original Petition No.784 of 2012, be and is hereby dismissed.



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(2) That the registry, be and is hereby directed to return the original records of the arbitration proceedings to the arbitrator.

WITNESS THE HON'BLE THIRU.SANJIB BANERJEE, CHIEF JUSTICE, HIGH COURT AT MADRAS AFORESAID, THIS THE 27th DAY OF JULY 2021.

Sd./-

ASSISTANT REGISTRAR (O.S.II) I/C

//Certified to be true copy//

Dated at Madras this the day of 2021.

COURT OFFICER(O.S.)

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05.08.2021

O.P.No.784 of 2012

ORDER

DATED :27.07.2021

THE HON'BLE MR.JUSTICE
N.SATHISH KUMAR

FOR APPROVAL: 12.08.2021

APPROVED ON: 13.08.2021



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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 27.07.2021

Coram:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

Original Petition No.784 of 2012

1. Mr.D.Lakshmikanatha
2. Mr.Deenadayalan

... Petitioners

versus

1. M/s.Cholamandlam Investment and Finance Company Limited,
Rep. by Mr.Anbalagan, Associate-legalCo-ordination,
No.3, NSC Bose Road,, Chennai – 1.
2. Mr.K.S.Gowthaman,
Advocate/Arbitrator,
New No.49, 224-B, IV Cross Street,
Natesa Nagar, Virugambakkam,
Chennai – 600 092.

... Respondents

PRAYER: Original Petition has been have been filed under Section 34 of Arbitration and Conciliation Act, 1996 to set aside the arbitral Award dated 30.06.2010 passed by the second respondent in C.P.No.KSG/CHOLA/3376/09 and dismiss the claim of the first respondent.

For Petitioners : No appearance

For Respondent : Mr.D.Pradeepkumar



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ORDER

This petition has been filed to set aside the award passed by the sole arbitrator in a dispute arose between the parties in respect of a loan agreement dated 18.10.2006.

2. There is no representation for the petitioners despite their name printed in the cause list.

3. The award dated 30.06.2010 is challenged mainly on the ground that the exparte award has been passed mechanically and without any notice to the petitioners. Though this Original Petition is pending from the year 2012, the petitioners are not cooperating for disposal of this petition.

4. This Court called for the original records from the learned Arbitrator. The records reveal that the award dated 30.06.2010 was sent to the petitioners through registered post by the learned arbitrator and the same was refused by the petitioners on 16.08.2010. The registered post returned cover available in the records makes it very clear that a copy of the award has been sent immediately after the award has been passed in the year 2010 itself and the same has been refused by the petitioners. Therefore, the



contention of the petitioners that they acquired knowledge as to the award only on 25.09.2012 is nothing but false and the same has been pressed into service only in order to get over the period of limitation.

5. In such view of the matter, as this petition challenging the award is filed beyond the period of limitation as contemplated under section 34 of the Arbitration and Conciliation Act, besides the records also indicate that the petitioners have been served notice and they deliberately did not appear before the arbitrator, I do not find any merits in this petition.

6. Accordingly, this Original Petition is dismissed. The registry is directed to return the original records of the arbitration proceedings to the arbitrator.

Sd./-(N.S.K.J.,)
27.07.2021

//Certified to be true copy//
Dated at Madras this the day of 2021.

COURT OFFICER(O.S.)
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