

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 06.09.2021

CORAM

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

O.P.No.626 of 2015

Smt.Krishnaveni
Petitioner

...

Vs.

1. Mr.Babusekar
2. Mr.J.Jeganivasan,
Sole Arbitrator,
Arbitrator Tribunal,
No.2/148, Valluvar Nagar,
Collectorate Post,
Dharmapuri Taluk & Post.

...Respondents

Prayer: Original Petition is filed under Order XLIII Rule 7 of O.S. Rules r/w Section 33 & 34 of the Arbitration and Conciliation Act, 1996, praying to set-aside the exparte award dated 07-03-2014 passed by the 2nd Respondent.

For Petitioner : Mr.D.Balachandran

For Respondent : No appearance

ORDER

(This case has been heard through video conference)

This Original Petition has been filed challenging the award passed by the Sole Arbitrator dated 07.03.2014.

2. It is submitted that the matter said to have been referred to learned Sole Arbitrator on the basis of loan agreement executed between the parties dated 27.08.2011, wherein it is stated that the petitioner said to have borrowed a sum of Rs.10,00,000/- (Rupees ten lakhs only) and agreed to pay interest at the rate of 1.50/- per month. It is stated in the award that as the loan agreement provides for appointment of Arbitrator, an Arbitrator was appointed by the respondent herein. On perusal of entire award, it would indicate that the notice sent through courier and no proper opportunity was given to the petitioner. Accordingly, the learned Arbitrator had passed an award on 07.03.2014 without hearing the petitioner herein and now challenging the same, the present original petition has been filed.

3. On perusal of award, this Court is of the view that notice of invocation

itself has not been proved as required under Section 21 of Arbitration and Conciliation Act. Besides, proper opportunity has not been given to the petitioner herein. There is no materials available on record to show that proper notice was issued informing the hearing date said to have been fixed on 07.03.2014 by the respondent at the relevant point of time. Further, the notice of appointment of Arbitrator has also not been served on to the petitioner. Further, there is also no materials available on record to show that any procession issued by the Arbitral Tribunal has been served on to the petitioner. In absence of any such notice, any award passed by the learned Sole Arbitrator is against the provision of Section 24(2) of the Arbitration and Conciliation Act. Besides, the award also cannot be sustained on the ground that no notice was served.

4. On perusal of entire award, the learned Arbitrator has not followed the principles of natural justice and as the very award itself was passed without any valid reason for not serving the notice to the petitioner. Without any evidence indicating that the notice served on to the other side, such award cannot be sustained in the eye of law. In such view of the matter, this Court is of the view that the award passed violating the provisions of Arbitration and Conciliation Act, not only Section 34 of the Arbitration and

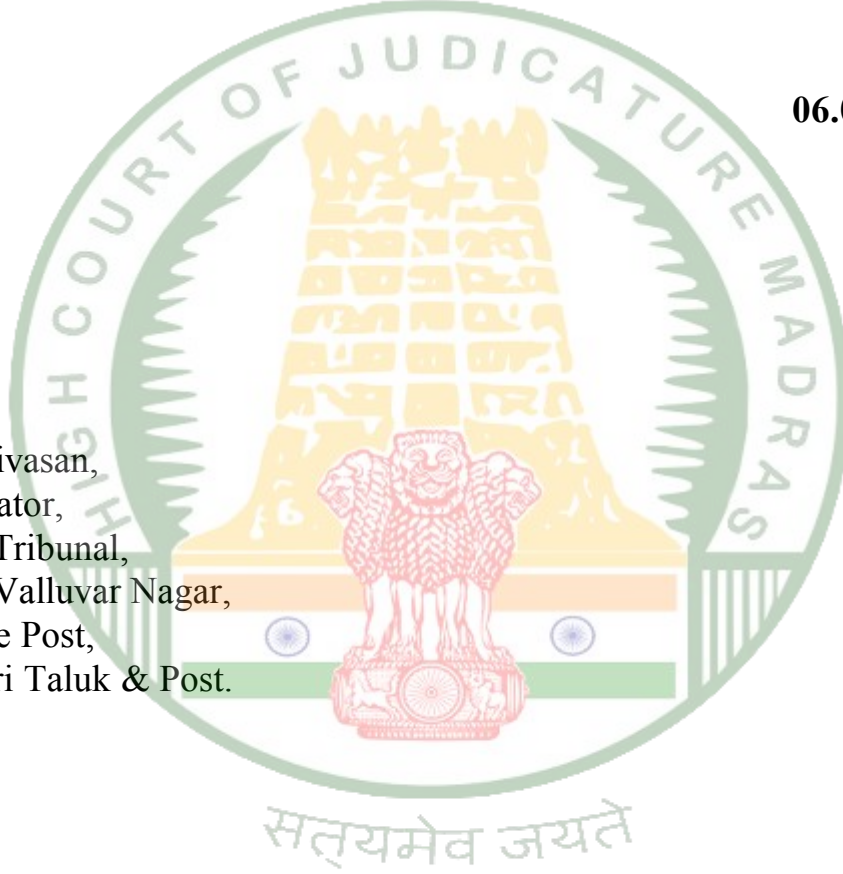
Conciliation Act and also other provisions of the Act. In such view of the matter, the award passed by the learned Sole Arbitrator is set aside. Accordingly, this Original Petition is allowed. No costs.

06.09.2021

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To

Mr.J.Jeganivasan,
Sole Arbitrator,
Arbitrator Tribunal,
No.2/148, Valluvar Nagar,
Collectorate Post,
Dharmapuri Taluk & Post.



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N.SATHISH KUMAR, J.

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