

**THE HIGH COURT OF JUDICATURE AT MADRAS**

Date 16.04.2021

CORAM:

**THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR**

**O.P.No.562 of 2016**  
**and A.No. 4031 of 2016**

S.Vijayamala

. . . Petitioner

Versus

1.M/s.Shriram City Union Finance Ltd.  
Represented by Manager – Legal and its  
Authorized representative Mr.D.Senthil Kumar  
No.123, Angappa Naicken Street,  
Chennai – 600 001.

2.R.Anandan

3.C.Srinivasan

4.R.Kandhavel

. . . Respondents

**PRAYER :** Petition filed under Section 34 (2) (a) (iii) of the Arbitration and Conciliation Act, 1996 to set aside the Arbitral award dated 27.12.2013 passed by the Arbitrator in Arbitration Case No. ACP (SCUF/EF) No.RK 117 of 2013.

For Petitioner

: Mr.Ralph V.Manohar

For Respondents

: Mr.K.V.Ananthakrishanan for R1

No appearance for R2,R3 and R4

## **ORDER**

The challenge has been made against the Arbitral award dated 27.12.2013 passed by the Sole Arbitrator in Arbitration Case No. ACP (SCUF/EF) No.RK 117 of 2013 dated 27.12.2013.

2. The claim has been made as against the respondents for recovery of money as per the loan agreement executed by the first respondent and the other respondents stood as guarantors.

3. It is the case of the claimant that the first respondent therein has committed default. The agreement was terminated and therefore, notice invoking the arbitration was sent to the parties to the address given by them. Despite such notice, none of the respondents referred the matter to Sole Arbitrator as per the loan agreement. The Sole Arbitrator after issuing notice to the respondents has passed an award based on the documents filed directing the respondents to pay a sum of Rs.5,47,793/- jointly and severally with interest at the rate of 36% per annum. Challenging the same, the present application has been filed.

4. The main contention of the petitioner is that the award itself is challenged mainly on the ground that the notice has not been served on the petitioner namely the fourth respondent therein. In otherwise, she has given up the other grounds raised in this petition. The only ground on which the award is challenged is non service of notice. Hence, it is his contention that the notice invoking arbitration has not sent and the notice related to the proceedings of the arbitration also not served on the claimant. Hence, it is the contention that award has to be set aside on the ground of non-service of notice.

5. However, learned counsel for the respondents submitted that notice has been sent to the correct address which was also received by the petitioner. Similarly, the Arbitrator also sent the notice to the same address which was also received in the same address. Now, it cannot be said that no notice is served on the petitioner.

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6. The Records of the Arbitrator has also been called for. On perusal of the same, the notice was sent by the first respondent, namely the claimant to the address mentioned in the loan agreement i.e., No.2, 8<sup>th</sup> street, Anjeneyapuram, Kakallur, Thiruvarur District, Tamilnadu. The said address has been given in the loan agreement. The Arbitrator after hearing the matter, sent the notice through Registered Post to the same address and the notice has been received by one Mahalakshmi.

7. It is not the case of the claimant that the notice invoking arbitration not sent to the same address of the claimant and received by her. Therefore, once the notice has been sent to the correct address, there is deemed service of notice as per the Section 3 of the Arbitration and Conciliation Act, 1996. When, the address is not disputed by the petitioner and it cannot be said that the notice has not been served on the respective person, when it has been properly sent to the correct address and somebody has also received the legal notice in the same address. The contention of the petitioner that notice has not been served to her and therefore award has to be set aside, is unsustainable.

8. In view of the above, I do not find any merit in the application. Accordingly, the original petition is dismissed. Consequently, connected application is closed.

msv

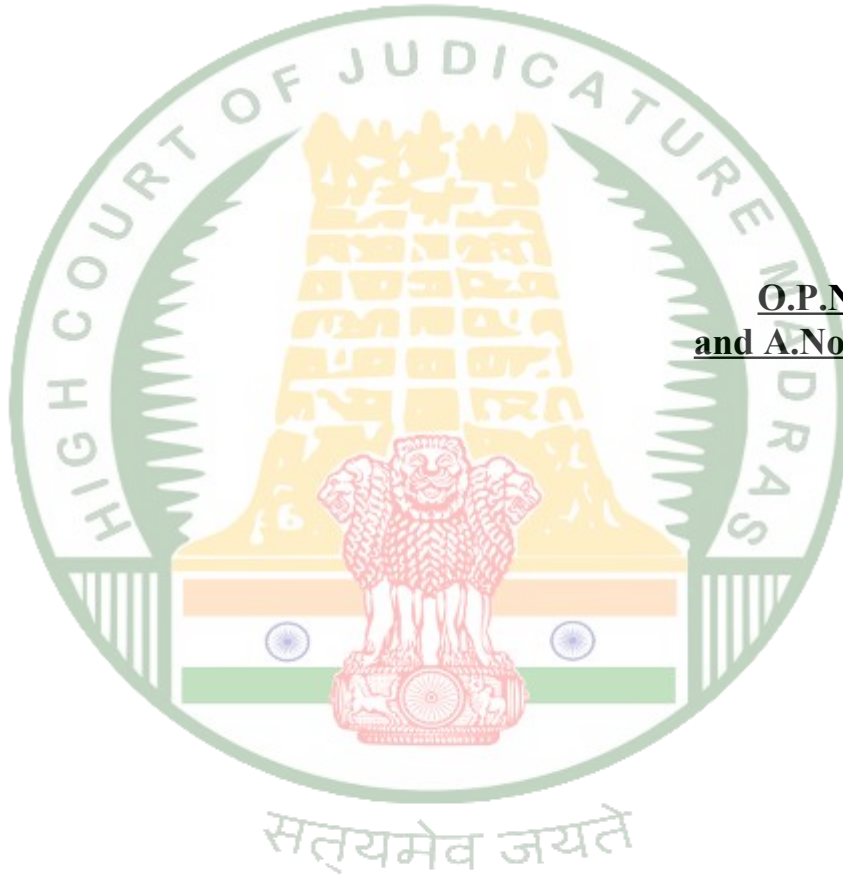
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**N.SATHISH KUMAR,J.**

Msv



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