

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.08.2021

CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

CRP (PD) No.1734 of 2021
and
CMP No. 13474 of 2021

V.C. Sethu

...Petitioner

versus

Inderchand Kochar

... Respondent

Civil Revision Petition filed under Article 227 of Constitution of India to admit and allow this Civil Revision Petition by set aside the order and decretal order dated 11.08.2021 made in E.P.No.3314 of 2014 in Arbitration Case No.ARB/IK/M/09 of 2013 on the file of X Assistant Judge, City Civil Court, Chennai.

For Appellant : Mr. Ravindran,
Senior Advocate
for Mr.K.Sellathurai

ORDER

Heard Mr.Ravindran, learned Senior Counsel appearing for the
petitioner.

2. This Civil Revision Petition has been filed under Article 227 of the Constitution of India challenging the order dated 11.08.2021, passed by the X Assistant City Civil Court, Chennai in E.P. No.3314 of 2014.

3. Under the impugned order, the property of the petitioner / judgment debtor was directed to be attached in an Execution Petition filed by the respondent / decree holder to execute an arbitral award dated 30.10.2013 passed in Arbitration case No.ARB/IK/M/09 of 2013.

4. The case of the petitioner / judgment debtor is that he has not received notice in the Arbitration case initiated by the respondent / decree holder. A counter was filed by the petitioner / judgment debtor in the execution petition.

5. The Executing Court rejected the contention of the petitioner on the ground that the petitioner / judgment debtor ought to have challenged the Arbitral award dated 30.10.2013 by filing an application under Section 34 of the Arbitration and Conciliation Act. Instead of challenging the Arbitral award, the petitioner has raised dispute in the

execution proceedings, which the Executing Court has rightly rejected. If the petitioner had not received the notice in the Arbitral proceedings initiated by the respondent / decree holder, he has a good ground for challenge under Section 34 of the Arbitration and Conciliation Act. Instead of adopting the settled challenge procedure available to a person against whom an Arbitral award has been passed, the petitioner has filed a counter before the Execution proceedings disputing the Arbitral award and claiming that he had received only a sum of Rs.2,50,000/- by way of loan from the respondent / decree holder and that the Arbitral award for a sum of Rs.14,60,000/- ought not to have passed against him.

6. The purpose of arbitration is for expeditious disposal of disputes. If this Civil Revision Petition is entertained under Article 227 of the Constitution of India, the purpose of Arbitration as contemplated under the Arbitration and Conciliation Act, 1996 will be defeated. The Arbitration and Conciliation Act, 1996 is a special enactment which provides for a challenge procedure as against arbitral awards. It has inbuilt safeguards to redress the grievances of the petitioner as claimed in this revision. Insofar as the grounds raised in this Civil Revision Petition are concerned, without taking recourse to the challenge procedure under

the provisions of the Arbitration and Conciliation Act, the petitioner has chosen to defend the Execution Petition initiated by the respondent / decree holder to execute the Arbitral award passed in his favour against the petitioner. The Executing Court has rightly rejected the contention of the petitioner / judgment debtor on the ground that he ought to have challenged the Arbitral award, under Section 34 of the Arbitration and Conciliation Act, 1996, which he has failed to do so.

7. This Court does not find any infirmity in the order passed by the executing Court and therefore, there is no merit in this Civil Revision petition. Accordingly, the Civil Revision petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

24.08.2021

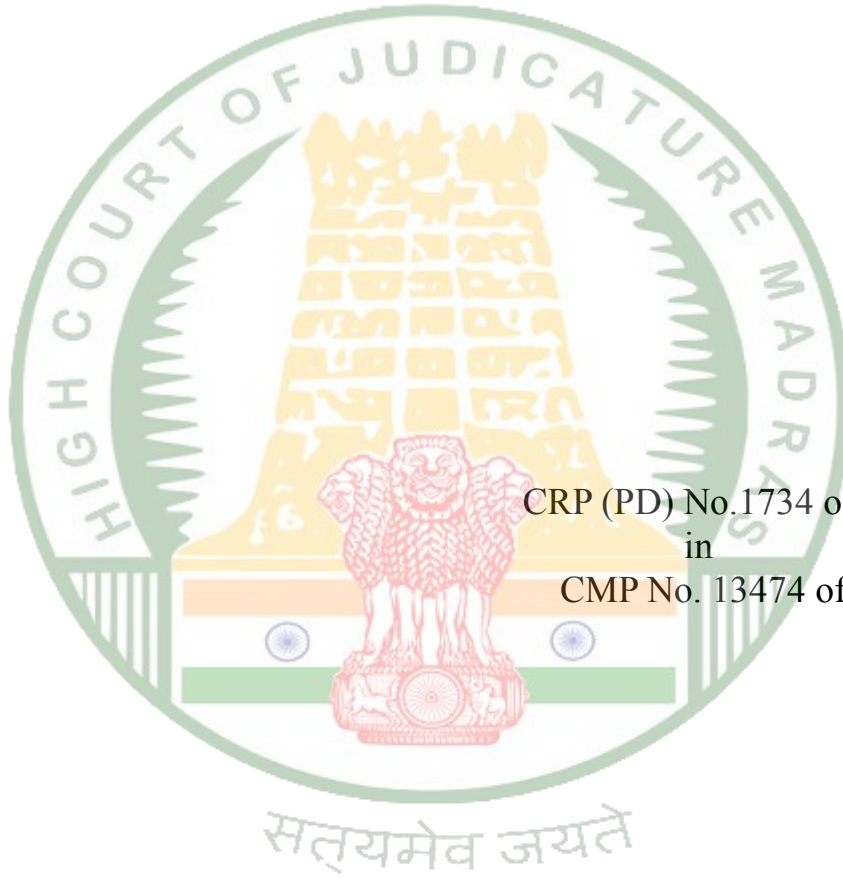
Index: Yes/No
Internet: Yes/No
Speaking Order/Non-Speaking Order
vsi2

To
The X Assistant Judge,
City Civil Court,
Chennai.

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and
CMP No13474 of 2021

ABDUL QUDDHOSE, J.

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