



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

THURSDAY, THE 22ND DAY OF JULY 2021

THE HON'BLE MR. JUSTICE N.SATHISHKUMAR

O.P.No.1009 of 2019

and

A.No.9490 of 2019

In the matter of Arbitration and Conciliation Act, 1996 and in the matter of disputes between M/s.Shriram City Union Finance Ltd and Mrs.Arockia Mary Stella B, Mrs.Shelaw Parthiban and Mr.Parthiban R. In respect of Trade Finance Agreement No.ARUMKTF1707190001 dated 19.07.2017.

1.Mrs.Arockia Mary Stella B,
W/o.Mr.Amal Raj J
No.7, Nethaji Street,
Kamaraj Nagar, Avadi,
Chennai- 600 071

2.Mrs.Shelaw Parthiban,
W/o.Mr.Parthiban
No.57, Ganabathi Koil Street,
Nehru Nagar, Kamaraj Nagar,
Chennai- 600 071

...Petitioners /Applicants

-VS-

M/s.Shriram City Union Finance Ltd
Represented by its Authorised Representative,
Having their office at
No.123, Angappan Naicken Street,
Chennai- 600 001



And it's inter alia Branch, Sorrento Building,
I Floor, No.6, L.B.Road, Adyar, Chennai- 600 020

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...Respondent/Respondent

O.P.No.1009 of 2019:

Original Petition praying that this Hon'ble Court be pleased to set aside the Arbitration Award dated 02.03.2019 in ACP (EF/C.A.R) No.CAR 163 of 2018 passed by the Sole Arbitrator, C.A.Ravichandran, Chennai and to give an opportunity to the petitioner herein to participate in the Arbitration Proceedings.

A.No.9490 of 2019:

Application praying that this Hon'ble Court be pleased to grant the stay of the execution of the Arbitration Award dated ACP (EF/C.A.R) No.CAR 163 of 2018 dated 02.03.2019 pending disposal of the above Arbitration Original Petition.

This Original Petition alongwith Application coming on this day before this court for hearing in the presence of Mr.B.K.Girish Neelakantan, Advocate for the Petitioner in O.P.No.1009 of 2019 and for the Applicant in A.No.9490 of 2019 and Mr.K.V.Ananthakrishnan, Advocate for the respondent in O.P.No.1009 of 2019 and A.No.9490 of 2018 and upon reading the order herein dated 10.02.2020, and this court having observed that once it is established that notice has been properly served and the



contended that no opportunity has been given to them in the arbitral proceedings, having received the notice and remained silent and deliberately not contesting the matter, it is too late for the applicant to raise the ground that amounts paid by them not given credit.

It is ordered as follows:-

That the O.P.No.1009 of 2019 be and is hereby dismissed.

WITNESS THE HON'BLE MR. JUSTICE SANJIB BANERJEE,
CHIEF JUSTICE, HIGH COURT AT MADRAS AFORESAID, THIS THE
22nd DAY OF JULY 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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SK-24.08.2021

4

O.P.No.1009 of 2019
and
A.No.9490 of 2019

ORDER :-
DATED : 22.07.2021

THE HON'BLE MR.JUSTICE
N.SATHISHKUMAR

FOR APPROVAL:25.08.2021

APPROVED ON: 28.08.2021



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5

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22/7/2021

C O R A M

THE HONOURABLE Mr.JUSTICE N.SATHISH KUMAR

O.P.No.1009 of 2019

a n d

A.No.9490 of 2019

1. Arockia Mary Stella.B.

2. Shelaw Parthiban

...

Petitioners

Vs

M/s. Shriram City Union Finance Ltd
rep. By its Authorised representative
Having their office at
No.123 Angappan Naicken Street
Chennai 600 001.

and its inter alia branch, Sorrento Building
I Floor, No.6, L.B.Road, Adyar
Chennai 600 020.

...

Respondent

Original Petition has been filed under Section 34 (1) & (2) of the Arbitration and Conciliation Act, 1996, to set aside the Arbitration award dated 2/3/2019 in ACP (EF/C.A.R) No.CAR 163 of 2018 passed by the Sole Arbitrator, C.A.Ravichandran, Chennai and to give an opportunity to the petitioner herein to participate in the Arbitration Proceedings.



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6

For petitioners

... Mr.B.K.Girish Neelakantan

For respondent

... Mr.K.V.Ananthakrishnan

ORDER

This Original Petition has been filed, to set aside the Arbitration award, dated 2/3/2019, in ACP (EF/C.A.R) No.CAR 163 of 2018, passed by the Sole Arbitrator, Mr.C.A.Ravichandran, Chennai, and to give an opportunity to the petitioner, to participate in the Arbitration Proceedings.

2. The petitioner has borrowed a sum of Rs.8 lakhs, as a result, the agreement came to be executed on 19/12/2017. As the petitioner has committed default, in payment of the loan amount, as per Trade Finance Agreement, the matter has been referred to the Sole Arbitrator. The learned Arbitrator framed necessary issues and passed an award based on the documents produced by the claimant. Challenge has been made to the award, dated 2/3/2009, passed by the sole Arbitrator in a dispute arose in a Trade Finance Agreement.

3. Heard Mr.B.K.Girish Neelakantan, learned counsel for the petitioners and Mr.K.V.Anantha Krishnan, learned counsel for the respondent.



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4. The main challenge is made on the ground that no opportunity has been granted before the learned Arbitral proceedings and no proceedings of arbitration either pre arbitration or post arbitration notice was served on the respondent.

5. The contention of the learned counsel for the petitioners is that no notice was served for arbitral proceedings and pre arbitration cannot be countenanced for the simple reason that learned Arbitrator in fact, has found that the petitioner has deliberately absented himself in appearing before the Arbitrator. Hence, he was set ex parte and thereafter, award has been passed. The pre arbitration, notice also served on 22/9/2018.

6. Another submission of the learned counsel is that the amount repaid by the petitioner has not been given credit. Such aspect cannot be gone into under Section 34 of the Act.

7. Once it is established that notice has been properly served and the petitioner had failed to appear before the arbitrator, now it cannot be contended that no opportunity has been given to them in the arbitral proceedings. Having received the notice and remained silent and



deliberately not contesting the matter, it is too late for the applicant to raise the ground that amounts paid by them not given credit.

8. In such a view of the matter, this Original Petition is dismissed.

Sd./-(N.S.K.J.)
22.07.2021

//Certified to be true copy//

Dated at Madras this the day of 2021.

COURT OFFICER(O.S.)

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