

CMP Nos.17701 of 2021 & 4341 of 2020
in
OSA No.97 of 2020

THE HON'BLE CHIEF JUSTICE
and
P.D.AUDIKESAVALU, J.

(Order of the Court was made by the Hon'ble Chief Justice)

The application has been filed in an appeal which has been disposed of by an order dated October 4, 2021. The appeal arose from a decree passed on the basis of an arbitral award.

2. The grievance of the appellant was that no notice under Section 14(2) of the Arbitration Act, 1940 had been issued to the appellant. However, it turned out that the appellant had applied under Sections 30 and 33 of the Act of 1940 for setting aside the award and at the time of disposal of the appeal from the decree passed on the basis of the award, the appellant represented to this court that the appellant's application for setting aside the award was kept in defective form by the department and not re-numbered.

3. In view of such submission, the appellant was given leave to pursue the appellant's defective application. It now turns out that a completely erroneous picture was presented to this court and the appellant's application for setting aside the order had been considered and dismissed on merits in the presence of counsel who later appeared for the appellant in the appeal.

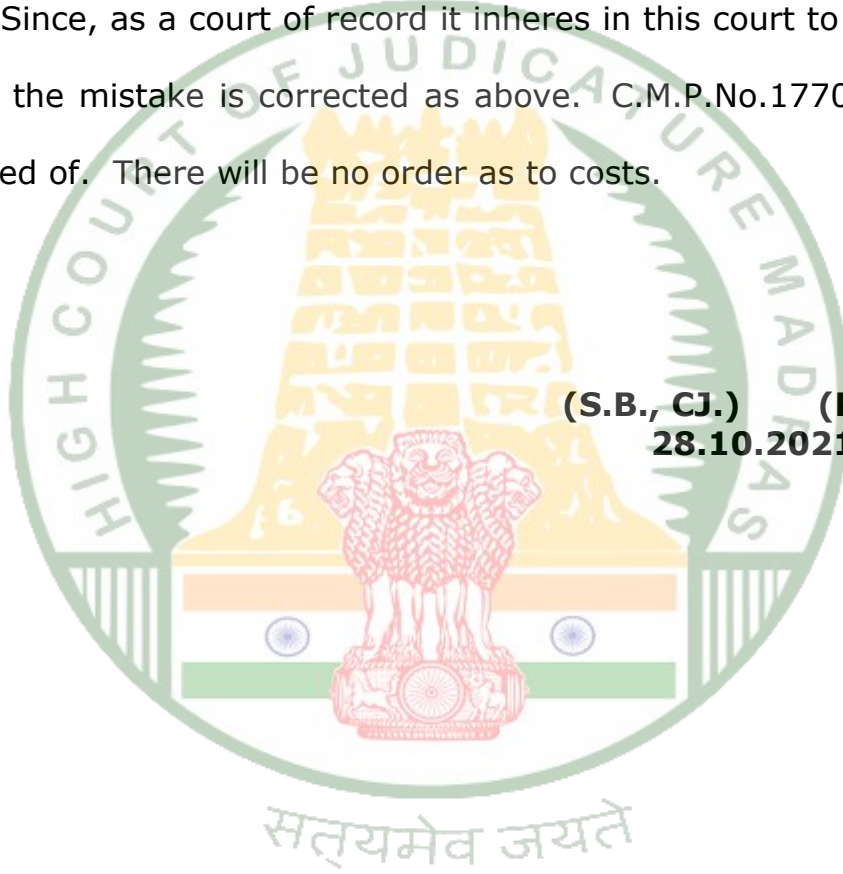
4. In view of such discovery, there is little latitude that the appellant is entitled to. Since the premise on which the appeal was received and decided was that the appellant's application for challenging the arbitral award would be revived thereby and since it is now evident that the relevant application challenging the award had been dismissed in the presence of advocate for the appellant, no question arises of the appellant being allowed to apply afresh for challenging the arbitral award since such arbitral award has now attained finality. Accordingly, the order dated October 4, 2021 is recalled to the extent that it set aside the judgment and decree impugned. Since the underlying premise for passing the order was flawed and the appellant's challenge to the arbitral award had already been repelled, the decree passed in terms of the award is affirmed.

OSA No.97 of 2020 is dismissed by modifying the order dated October 4, 2021 accordingly. C.M.P.No.4341 of 2020 is closed. There will be no order as to costs.

5. Since, as a court of record it inheres in this court to correct its mistake, the mistake is corrected as above. C.M.P.No.17701 of 2021 is disposed of. There will be no order as to costs.

(S.B., CJ.) (P.D.A., J.)
28.10.2021

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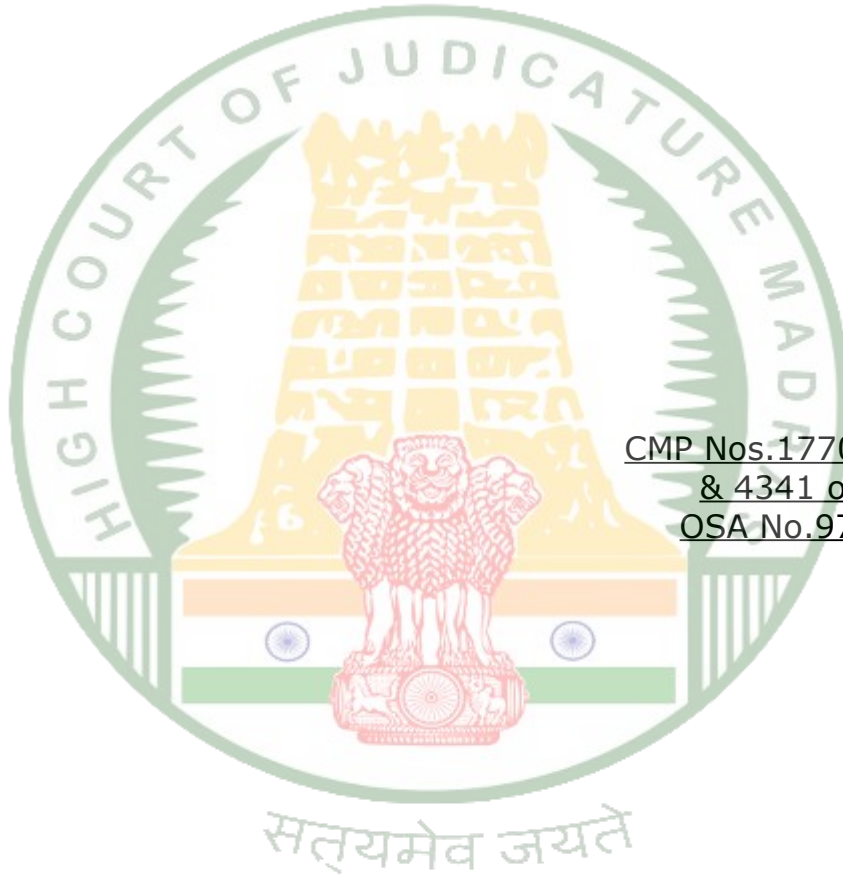
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