

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 20.01.2021

CORAM

THE HON'BLE Mr.JUSTICE **M.SUNDAR**

O.P.No.507 of 2017

and

A.No.3757 of 2017

R.Valayapathi
S/o.Rathinasamy

... Petitioner

-Vs.-

1. M/s.Shriram City Union Finance Ltd.,
No.4/289, Pycrafts Road, 1st Floor,
Triplicane,
Chennai-600 005.

2. Prabhu
S/o.Amalraj

3. P.Radhakrishnan
S/o.Ponnan

4. Roshana
S/o.Rathinasamy

.. Respondents

This Original Petition filed under Section 34 of the Arbitration and Conciliation Act, 1996, praying to set aside the exparte award of the Sole Arbitrator passed in A.C.P.No.(EF/CMS) 451/2013 dated 3.10.2016 as against the Petitioner herein with cost.

For Petitioner : Mr.N.P.Kumar
For Respondents : Mr.K.V.Ananthakrushnan for R1
R2-Left
No appearance for R3 & R4

ORDER

Mr.N.P.Kumar, learned counsel on record for sole petitioner and Mr.K.V.Ananthakrushnan, learned counsel on record for the contesting first respondent are before me in this web hearing on a video conferencing platform.

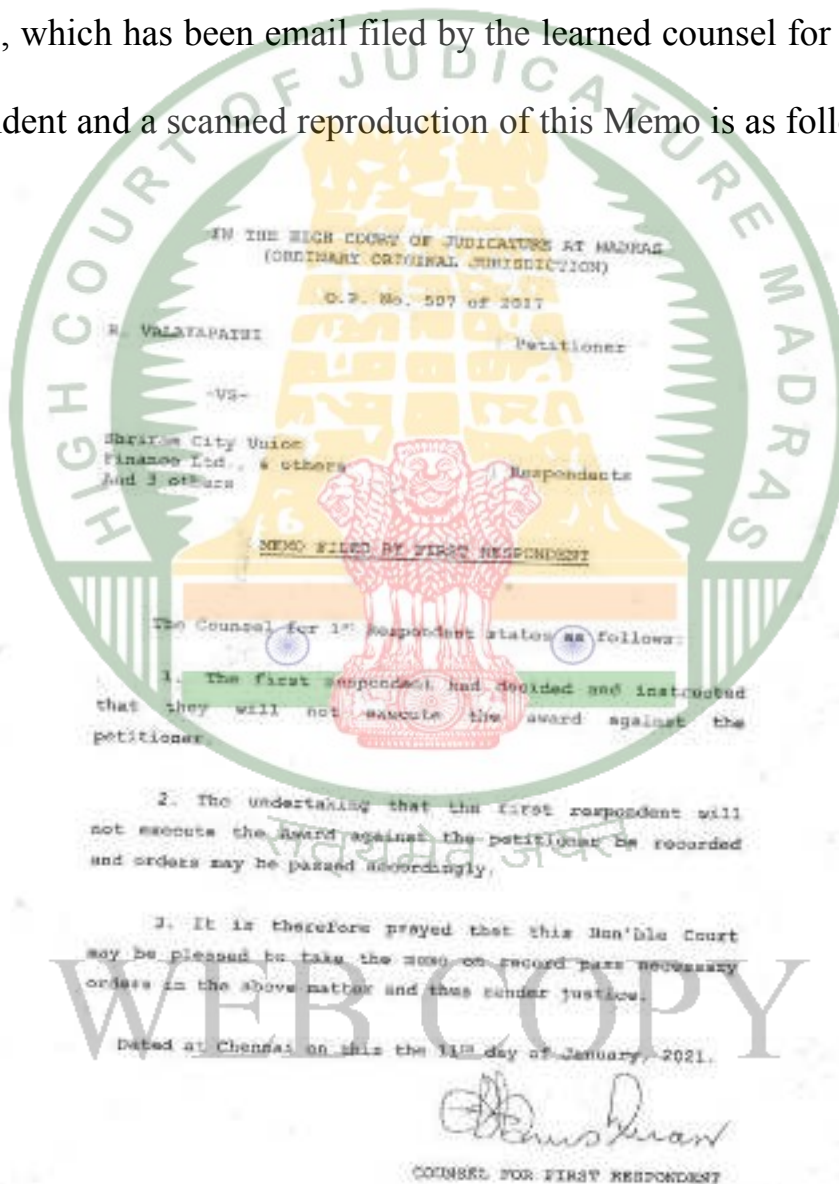
2. Read this in conjunction with and in continuation of earlier proceedings made in previous listing on 18.01.2021, which reads as follows:

'Registry to verify regarding service on second respondent (Prabhu S/o.Amalraj) and do the needful in the next listing.

2. List day-after-tomorrow i.e., 20.01.2021.'

3. Pursuant to aforementioned earlier proceedings made in previous listing, this Court is informed today that learned counsel for petitioner has filed an affidavit of service and notice sent to the second respondent has been returned with the postal endorsement 'LEFT'.

4. To be noted, captioned OP is listed today under the cause list caption 'FOR FINAL DISPOSAL/ARGUMENTS', but when the matter is taken up, there is a twist to the tale. This is owing to a Memo dated 11.01.2021, which has been email filed by the learned counsel for contesting first respondent and a scanned reproduction of this Memo is as follows:



5. Learned counsel for contesting first respondent, adverting to the aforesaid Memo, reiterated the contents of the above Memo and submitted that the contesting first respondent will not enforce the 'Arbitral Award dated 03.09.2014 bearing reference ACP (SCUF/EF) No.R K 103 of 2014' [hereinafter 'impugned award' for the sake of brevity, convenience and clarity] made by an 'Arbitral Tribunal' ['AT' for the sake of brevity] constituted by a sole Arbitrator.

6. To be noted, the lone petitioner in the captioned OP is R.Valayapathi, (Son of Rathinasamy) and he is respondent No.3 in the impugned award made by AT.

7. This Court is informed by learned counsel for contesting first respondent [which is claimant before AT in the impugned award] that no other party to the impugned award i.e., respondents 1, 2 and 4 before Arbitral Tribunal have laid any challenge to the impugned award. This submission is recorded.

8. In the light of the aforementioned narrative, which captures what unfurled in the hearing today, sole petitioner's counsel submits that petitioner's recourse to this Court against the impugned award has become infructuous and submits that it will suffice if the aforementioned memo and reiteration of contents of the same are recorded. To be noted, the other respondents before AT namely respondents 1, 2 and 4 have been arrayed as respondents 2, 3 and 4 respectively in the captioned OP and they not having laid a challenge and not having taken recourse to this Court against impugned award, cannot assail the impugned award in the instant proceedings. This draws the curtains on captioned OP.

9. Captioned OP is disposed of as closed as infructuous recording the above Memo filed by contesting first respondent and reiteration of contents of the same in the hearing today by learned counsel for contesting first respondent. There shall be no order as to costs. Consequently, connected Application No.3757 of 2017 is also closed as infructuous.

20.01.2021

Speaking order: Yes/No

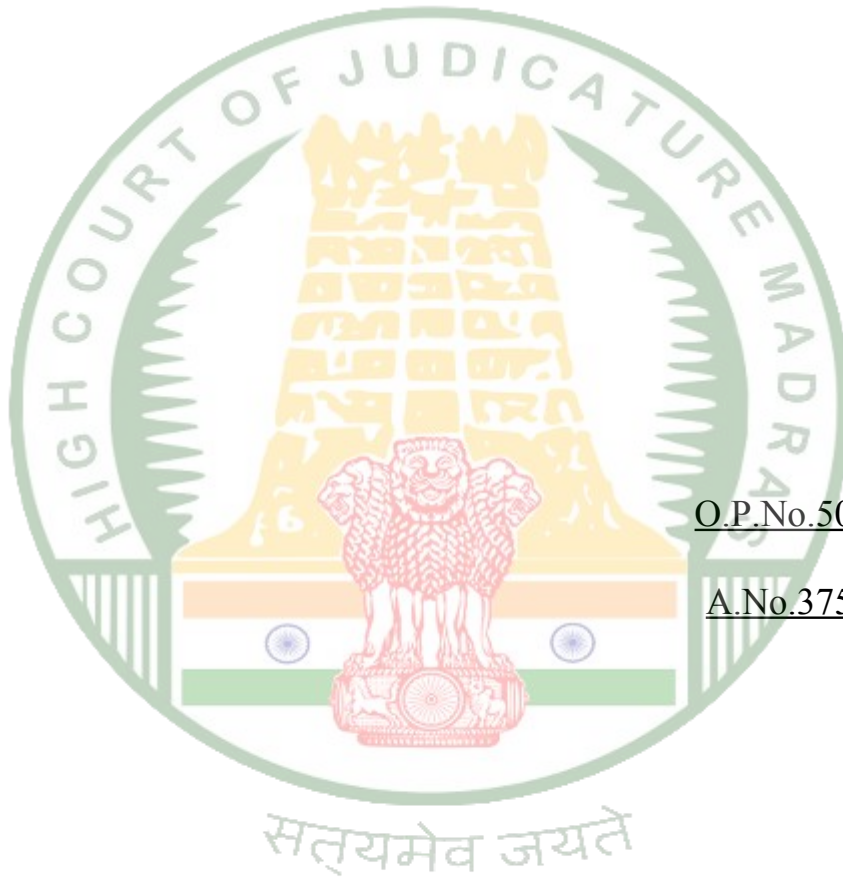
Index: Yes / No

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M.SUNDAR, J.

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