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CRP.(NPD).No.545/2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.03.2022

CORAM:

THE HON'BLE Mr. JUSTICE N.SESHASAYEE

CRP.(NPD)No.545 of 2022
and CMP No.2865 of 2022

A.Arumaiselvi

...Petitioner/Respondent

Vs

Kotak Mahindra Bank Limited
Rep by its Authorised person,
Having its registered office at
27 BKC, C27 G Block, Bandra Kurla Complex
Bandra (E,) Mumbai 400 051.

... Respondent/Petitioner

PRAYER: The Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the order dated 06-12-2021 made in E.A.No.90 of 2019 in E.P.No.40 of 2018 in ARB No. AP 2351 on the file of the Principal District Court Tiruppur.

For Petitioner : Mr.S.Y.Prakash

ORDER

This revision is filed for challenging an order dismissing an application under Section 47 of CPC in E.A.No.90 of 2019 in E.P.No.40 of 2018 in ARB No.AP 2351 on the file of the Principal District Court, Tiruppur.



2.The brief facts leading to filing of this petition are as follows:

The respondent herein is the Kotak Mahindra Bank limited, which has initiated certain proceedings under SARFAESI Act against the Revision Petitioner and the matter is now pending before the Principal District Court Tirrupur. In the meantime, the respondent has taken out a petition in E.P.No.40 of 2018 for executing an award passed in Arbitral Proceedings initiated at the instance of certain City Financial Consumer Finance India limited as an assignee of the said award, the same is resisted by the Revision Petitioner/ Judgment Debtor. In the Execution Petition, she has taken out an Application under Section 47 of Civil Procedure Code impugning the very award on the ground that there was no sustainable liability as shown by City Financial Consumer Finance India limited. This application came to be dismissed and the revision is directed against this Order.

3.Heard the learned counsel for the revision petitioner. The learned counsel for the revision petitioner made three points as follows:

- (a) that the revision petitioner indeed had parted certain sum of amounts from the aforesaid City Financial Limited, but that has been long



discharged.

(b) Though the notice of reference to Arbitration was received by the Revision Petitioner, no further notice was ever received by her.

(c) No copy of the award has yet been filed.

4.If the grounds on which the revision petitioner seeks to attack the award were to be considered for their merit, then the revision petitioner's strategy in invoking Section 47 CPC is misconceived. She ought to have conducted the award in the first place, which she has not done, yet if the statement of the copy of the award is not been served on the Revision Petitioner is true, then, she still has time to challenge the same. The revision petitioner is therefore directed to approach the concerned Principal District Court for challenging the award under Section 34 of the Arbitration and conciliation Act, if she is so desirous.

5.Turning to the present case, the revision petitioner states that she did not have the copy of the Award, but she has obtained the certified copy from the Execution Court. The revision petitioner is permitted to make use of the same and Registry of the District court is required to accept the same.



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6. With the above observations, this Civil Revision Petition is dismissed.

No costs. Consequently connected miscellaneous petition is closed.

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Index : Yes/No
Speaking Order/Non Speaking Order
msv/dk

Note: Issue order copy on 08.03.2022.

To
The Principal District Court

Tiruppur



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N.SESHASAYEE, J.,

msv/dk

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