



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

FRIDAY, THE 07th DAY OF JANUARY 2022

THE HON'BLE MR.JUSTICE ABDUL QUDDHOSE

O.P. No.398 of 2021

and

A.No.1908 of 2021

In the matter of Arbitration and
Conciliation Act, 1996 as amended in
2015

And

In the matter of the award of the Sole
Arbitrator P.Ganesan at Chennai
Dated 23.01.2021.

V.Manjunatha Reddy, M/43,
Son of Venkata Reddy,
Door No.19, Shanthi Nagar 3rd Cross,
Raghavendra Theatre, Hosur,
Krishnagiri – 635 109.

... Petitioner/Respondent

Vs

1.M/s. Kotak Mahindra Prime Ltd,
Represented by its Authorised Signatory
Samson Towers, 6th Floor, 402L,
Pantheon Road, Egmore,
Chennai – 600 008.

... 1st Respondent/Claimant

2.T.Narayanappa,
Plot No.83 19 First Floor, 2nd House,
1st Cross Amman Nagar Dinnur,
Salem – 635 109.

... 2nd Respondent/2nd Respondent

**O.P. No.398 of 2021:-**

Original Petition praying that this Hon'ble Court be pleased to set aside the award of Sole Arbitrator Mr.P.Ganesan in Arbitration Case No.KMPL/10/2020 dated 23.01.2021 and received by the petitioner on 13.02.2021.

A.No.1908 of 2021:-

Application praying that this Hon'ble Court be pleased to stay the award of the Sole Arbitrator Mr.P.Ganesan in Arbitration Case No.KMPL/10/2020 Dated 23.01.2021 pending disposal of the present original petition.

This Petition along with the application coming on this day before this court for hearing, in the presence of Ms.B.Kavya, Advocate for the petitioner in O.P.No.398 of 2021 and for the applicant in A.No.1908 of 2021 and Mrs.Rajeni Ramadoss, Advocate for the respondents in O.P.No.398 of 2021 and A.No.1908 of 2021, and upon reading the petition and counter affidavit of the 1st Respondent filed in O.P.No.398 of 2021 and the Judge's Summons and the Affidavit of V.Manjunatha Reddy filed in A.No.1908 of 2021 and this court having observed that the contention of the



scope for interference under Section 34 of the Arbitration and Conciliation

Act, 1996 by this court is limited and the petitioner has not satisfied any of the grounds for interference as contemplated under section 34 of the Arbitration and Conciliation Act, 1996 and there is no merits in this petition, **it is ordered as follows:**

That the petition in O.P.No.398 of 2021 be and is hereby dismissed.

2. That the A.No.1908 of 2021 do stand closed.

WITNESS THE HON'BLE MR.JUSTICE MUNISHWAR NATH BHANDARI, ACTING CHIEF JUSTICE, HIGH COURT AT MADRAS AFORESAID, THIS THE 07th DAY OF JANUARY 2022.

Sd/-

ASSISTANT REGISTRAR(O.S.II)

//Certified to be true copy//

Dated at Madras this the day of 2022.

COURT OFFICER(O.S.)

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23.03.2022

O.P. No.398 of 2021
and
A.No.1908 of 2021

ORDER:-

DATED: 07.01.2022

THE HON'BLE MR.JUSTICE
ABDUL QUDDHOSE

FOR APPROVAL: 25.03.2022

APPROVED ON : 25.03.2022



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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:07.01.2022

CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

**O.P.No. 398 of 2021
and A.No.1908 of 2021**

V.Manjunatha Reddy

.... Petitioner

vs

1. M/s.Kotak Mahindra Prime Ltd,
Represented by its Authorised Signatory,
Samson Towers, 6th Floor, 402L,
Pantheon Road, Egmore,
Chennai – 600 008.

2. T.Narayanappa

.... Respondents

Original petition filed under Section 34 of the Arbitration and Conciliation Act, 1996 to set aside the award of Sole Arbitrator Mr.P.Ganesan in Arbitration Case No. KMPL/10/2020 dated 23.01.2021 and received by the petitioner on 13.02.2021.

For Petitioner : Ms. B.Kavya

For Respondents : Mr.Rajeni Ramadoss

ORDER

This petition has been filed under Section 34 of the Arbitration and



under which, the petitioner was directed to pay sum of Rs.3,48,141/- (Rupees Three Lakhs Forty Eight Thousand One Hundred an Forty One only) together with interest at 18% per annum from 29.02.2020 till the date of realization and was also directed to hand over the vehicle, which is the subject matter of the Loan agreement dated 22.05.2018 to the first respondent. The petitioner was also directed to pay the cost of the Arbitration Proceedings. Aggrieved by the aforementioned Arbitral Award, this petition has been filed under Section 34 of the Arbitration and Conciliation Act, 1996.

2. Heard the learned counsel for the petitioner and the learned counsel for the respondents.

3. The only ground raised by the petitioner is that notice was not received by the petitioner in the arbitration from the Arbitral Tribunal. The petitioner has also stated that the Arbitrator ought to have given an opportunity to the petitioner to settle the claim of the first respondent.

4. Admittedly, the petitioner has entered into a loan agreement dated 22.05.2018 with the first respondent, under which, the petitioner has availed a loan for the purchase of a vehicle, which is the subject matter of the loan



agreement dated 22.05.2018, which is in hypothecation with the first respondent. Admittedly, there is also an arbitration agreement in the loan agreement dated 22.05.2018.

5. As seen from the averments contained in this petition filed under Section 34 of the Arbitration and Conciliation Act, 1996, the petitioner is a defaulter under the loan agreement dated 22.05.2018.

6. Learned counsel for the first respondent has placed before this Court additional documents in support of their contention that the notice was duly served on the petitioner in the Arbitral proceedings. The copy of the notice dated 14.02.2020 sent by the Arbitrator together with an acknowledgment and copy of notice of the Arbitrator dated 02.03.2020 together with an acknowledgment and a copy of notice of the Arbitrator dated 16.10.2020 together with the acknowledgment received by the petitioner have been filed as additional documents by the first respondent to prove that the petitioner has received the notice in the Arbitral proceedings from the Arbitrator. The statement of default of installments committed by the petitioner under the loan agreement dated 22.05.2018 has also been filed as a document by the learned counsel for the first respondent.



7. As seen from the aforementioned documents, it is clear that notice was received by the petitioner in the Arbitral proceedings and despite the receipt of the same, the petitioner chose not to appear before the Arbitration and that is the reason for the Arbitrator to set the petitioner exparte and pass an exparte arbitral award. Therefore, the contention of the petitioner that he did not receive notice in the arbitration, is rejected by this Court.

8. The scope for interference under Section 34 of the Arbitration and Conciliation Act, 1996 by this Court is limited. The petitioner has not satisfied any of the grounds for interference as contemplated under Section 34 of the Arbitration and Conciliation Act, 1996.

9. Therefore, there is no merit in this petition. Accordingly, this petition is dismissed. Consequently, the connected application is closed.

Sd./-A.Q.J.
07.01.2022

//Certified to be true copy//

Dated at Madras this the day of 2022.

COURT OFFICER(O.S.)

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