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O.S.A.No.12 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.06.2022

CORAM:

THE HONOURABLE Mr. JUSTICE M.DURAI SWAMY

AND

THE HONOURABLE Mr.JUSTICE SUNDER MOHAN

O.S.A.No.12 of 2022
and C.M.P.No.856 of 2022

1.Mr.K.Palani
S/o.Kannan,

2.Mrs.Vanitha
W/o.Puvendhan,

... Appellants

Versus

Shriram Transport Finance Co.,Ltd.,
Represented by its P.A.Holder
Mr.S.Vardhan
No.8/2 Bazaar Street, Near A.T.Mahal,
Periyapalayam, Thiruvallur – 601 102.

... Respondent

PRAYER: Original side Appeal filed under Clause 15 of the Letters Patent Appeal with Order XXXVI Rule 9 of Original Side Rules and Section 37(c) of Arbitration and Conciliation Act 1996 to set aside the order passed in O.P.No.568 of 2020 dated 10.12.2020.

For Appellants : Mr.D.Bharathy



J U D G E M E N T

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Judgment was delivered by **SUNDER MOHAN,J.**

The appellants have preferred the above appeal challenging the order passed by the learned Single Judge of this Court dismissing the O.P.No.568 of 2020, which was filed challenging the Arbitral award dated 05.11.2019. The Appellants suffered an award passed by the Arbitral Tribunal, by which, the appellants were jointly and severally directed to pay a sum of Rs.11,01,109/- (Eleven Lakhs One Thousand One Hundred and Nine only) with further interest at 18% per annum from 26.06.2019 till the date of realisation. The said award was challenged before the learned Single Judge of this Court under Section 34 of Arbitration and Conciliation Act 1996 mainly on the ground that even though he had taken a loan of Rs.10,00,000/- (Rupees Ten Lakhs Only) from the respondent, the EMI payable by him ought not to have been Rs.26,494/- (Rupees Twenty Six Thousand Four Hundred and Ninety Four only) and it ought have been Rs.18,000/- (Rupees Eighteen Thousand Only) and that the Arbitral Tribunal did not consider the same.

2.The learned single Judge found that the learned Arbitrator in



his award had taken into consideration all the contentions raised by the appellants including the contention with regard to the EMI payable by the appellants and that the Arbitrator had taken a reasonable view. The learned Single Judge also referred to a legal notice dated 24.11.2017 issued by the Appellants to the respondent, which was produced for the first time before the learned Single Judge. The learned single Judge also found that after the receipt of the notice, the respondent had reduced the EMI from Rs.26,494/- to Rs.20,500/- on condition of the appellants clearing the arrears of Rs.2,35,346/-. However, the appellants did not comply with the said condition to pay the arrears. The learned single Judge also held that the petitioners in O.P.No.568 of 2020 did not bring their case within the limited parameters for challenging an award under Section 34 of the Arbitration and Conciliation Act 1996.

3. We find from the records that the Appellants herein did not dispute the fact that they had taken a loan of Rs.10,00,000/- (Rupees Ten Lakhs only) from the respondent. Their only defence was with regard to the quantum of their liability. Their case before the Arbitral Tribunal was that since their loan was wrongly classified as business loan, they were made to pay Rs.26,494/- as EMI; that they were liable to pay only Rs.18,000/- (Rupees Eighteen

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Thousand Only) since their loan was for construction purposes. The Branch Manager of the claimant/respondent was examined as P.W.1 and he in his proof affidavit had stated that pursuant to the legal notice issued by the appellants herein the respondent acceded to the reduction of EMI amount from Rs.26,494/- to 20,500/- with the condition to clear the arrears of Rs.2,35,346/- (Rupees Two Lakhs Thiry Five Thousand Three Hundred and Forty Six Only). The Arbitral Tribunal addressed this issue and found that the EMI was reduced by the respondent with the condition to pay the abovesaid arrears and the appellants failed to comply with the said condition. It also found that the claimant has established through oral and documentary evidence that they were entitled to a sum of Rs.11,01,109/- with interest. We are of the view that the Arbitral Tribunal had elaborately considered the rival submissions and passed a well reasoned award. The view of the Arbitral Tribunal cannot be faulted. The Appellants have not made out any case for interference in the said award.

4. We find that the order of the learned single Judge has elaborately dealt with the contention of the appellants and has held that the appellants had not brought their case within the parameters of the amended Section 34 of the Arbitration Act and Conciliation Act 1996. We find no reason to

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interfere with the order passed by the Learned Single Judge. Hence, the Original Side Appeal stands dismissed. Consequently, the connected miscellaneous petition is closed. No Costs.

[M.D.J] [S.M.J]

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Index : Yes
Internet : Yes
Speaking/Non-Speaking orders
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