



A.No.179 of 2023

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in Arb.O.P.No.1 of 2023

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K.KUMARESH BABU, J.

This application has been filed seeking for stay of operation of the award passed by the learned sole Arbitrator.

2. A claim petition seems to have been filed by the respondent seeking for a direction to the applicant/petitioner to withdraw the Partition Suit in O.S.No.22 of 2023 pending on the file of the District Principal Court, Chengalpattu and handover the original documents of the Claim Schedule Property to execute a Sale Deed in respect of Claim Schedule Property in favour of the respondent by receiving the sale consideration.

3. The learned counsel for the applicant/petitioner would submit that no notice of arbitration proceedings was served upon the applicant/petitioner and that they were not aware of the arbitration proceedings. He also would submit that the award passed by the learned sole Arbitrator came to the knowledge of the applicant/petitioner only after the receipt of the notice in the Execution Proceedings in E.P.No.178



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of 2019. Therefore, the applicant/petitioner had filed the present Arb.O.P. challenging award passed by the learned sole Arbitrator.

4. The learned counsel for the respondent would submit that the learned sole Arbitrator has recorded that the notice has been served upon the applicant/petitioner. It is also brought to attention of this Court to Issue Nos.2 and 3, wherein, the learned sole Arbitrator had recorded that there was no representation on behalf of the applicant/petitioner before the learned sole Arbitrator, although the second notice was duly sent.

5. I have perused the said documents. The learned sole Arbitrator had recorded that the notice was sent to the applicant/petitioner who was the respondent in the Arbitration Proceedings and that such notice has been duly served. No statement of fact has been given as to how the notice was duly served has been recorded.

6. Further, *prima facie* in the claim petition, there was a prayer for a direction to the applicant/petitioner to withdraw the Partition Suit in O.S.No.22 of 2023 pending on the file of the District Principal Court,



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Chengalpattu and for the consequential relief. From a reading of the award, no issues were framed by the learned sole Arbitrator with regard to the main relief and that there was no direction as to the applicant/petitioner to withdraw the said suit. Without deciding the main prayer, consequential relief had been granted by the learned sole Arbitrator.

7. Further, it is the prayer in the claim petition for a direction to withdraw the suit. It is not known as to how a direction could be issued to the parties to withdraw a civil suit that has been initiated before the Trial Court. Prima facie, this Court is not satisfied with the award passed by the learned sole Arbitrator as not only the notice has not been served upon the applicant/petitioner but also the learned sole Arbitrator had exceeded canons of law. Therefore, **there shall be an order of stay of operation** of all further proceedings pursuant to the award passed by the learned sole Arbitrator.

13.04.2023

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