



ARB.O.P.NO.45 OF 2022

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED : 17.11.2023**

**CORAM**

**THE HON'BLE MR.JUSTICE N.SATHISH KUMAR**

**ARB.O.P.NO.45 OF 2022**

**AND**

**A.NOS.5155 OF 2022 AND 1431 OF 2023**

A.O.Selvam

.. Petitioner

**VS.**

1.M/s.Shriram Transport Finance Co. Ltd.,  
Represented by its PA Holder Mr.S.Jayakumar  
Sri Towers, No.14A, South Phase,  
Industrial Estate, Guindy,  
Chennai – 600 032.

2.S.Chellapandian

.. Respondents

**PRAYER:** Petition filed under Section 34(2)(a)(iii) and 34(2)(b)(ii) of Arbitration Act to set aside the Arbitral Award dated 20.02.2021 passed by the sole Arbitrator.

For Petitioner : Mr.R.P.Vijayakrishnan  
for Mr.R.Priyakumar

For Respondents : No appearance

**J U D G M E N T**



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This Arbitration Original Petition has been filed to set aside the Arbitral Award dated 20.02.2021 passed in Arbitration Case No.59 of 2020 by the Sole Arbitrator in respect of the claim petition filed by the first respondent.

2.The learned Arbitrator passed an Award as against the second respondent and the petitioner herein for a sum of Rs.1,19,198/- (Rupees One Lakh Nineteen Thousand One Hundred and Ninety Eight Only) along with further interest at 18% per annum from the date of the claim petition i.e., 29.02.2020 till the date of realization.

3.The Arbitral Award has been challenged by the petitioner mainly on the ground that no notice was served on him with regard to the constitution / appointment of the Arbitral Tribunal; no notice was served on him before passing the Arbitral Award; the Arbitral Tribunal has been constituted unilaterally; the Award has been passed *ex parte* and was not served on the petitioner and kept as secret until execution petition was filed.



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4.Despite the name of the counsel for the respondents printed in the cause list, none appears for the respondents.

5.Heard the submission made by the learned counsel for the petitioner and perused the entire materials available on record.

6.On perusal of the Arbitral Award, this Court is of the view that the same is liable to be interfered with only on the grounds set out in Section 34 of the Arbitration and Conciliation Act, 1996. On perusal of the Award, it clearly indicates that the second respondent has not been served notice even when the legal notice was issued at earlier point of time for claiming payment. Even during the arbitration proceedings, notice has not been served on the second respondent.

7.Be that as it may, the Sole Arbitrator has been appointed unilaterally by the first respondent herein. It is well settled that unilateral appointment of Arbitrator is not valid in the eyes of law as held by the



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Hon'ble Supreme Court in ***PERKINS EASTMAN ARCHITECTS DPC AND  
ORS. VS. HSCC (INDIA) LTD [MANU/SC/1628/2019].***

8.Considering the same and also considering the fact that notice has not been served on the second respondent even during the arbitration proceedings, this Court is of the view that the Arbitral Award cannot be sustained in the eyes of law.

9.Accordingly, the Arbitral Award dated 20.02.2021 passed in Arbitration Case No.59 of 2020 by the Sole Arbitrator is set aside and the Arbitration Original Petition is allowed. However, it is well open to the respondents to go for fresh appointment of Arbitrator. No costs. Consequently, connected applications are closed.

**17.11.2023**

Index : Yes/No  
Neutral Citation: Yes/No  
Speaking / Non-speaking order  
TK



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**N.SATHISH KUMAR, J.**

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