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C.M.A.No.2947 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.01.2023

CORAM :

THE HON'BLE MR.T.RAJA, ACTING CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

C.M.A.No.2947 of 2022

1. M.Sakthivel

2. Selvi

W/o M.Sakthivel

.. Appellants

v

1. M/s Shri Ram City Union Finance Ltd.,

Branch Office at Five Road

and Recovery Office at

464, J.R.Complex, Gugai

Salem 636 006

represented by its Authorized Officer

2. G.Venugopal

Sole Arbitrator

.. Respondents

Memorandum of Grounds of Civil Miscellaneous Appeal under Section 37 of the Arbitration and Conciliation Act, 1996 against the fair and decretal order dated 06.12.2021 in AROP No.283 of 2019 passed by the learned Principal District Judge, Salem, confirming the Award passed by the



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Arbitrator viz., second respondent dated 29.07.2019 in AOP No.501 of 2017.

For Appellants :: Mr.S.Kalyanaraman

ORDER

(Order of the Court was made by the Hon'ble Acting Chief Justice)

This civil miscellaneous appeal has been directed against the impugned decretal order dated 06.12.2021 passed by the learned Principal District Judge, Salem in Arbitration O.P.No.283 of 2019.

2. Learned counsel appearing for the appellants, assailing the impugned decretal order, heavily argued before us that when the first respondent is a finance company, the appellants approached them for financial assistance and the first respondent also, considering the need of the appellants, sanctioned a loan of Rs.22 lakhs on condition that the appellants should repay the loan in 36 equated monthly installments at the rate of Rs.91,410/- per month. But there was a default in payment of the monthly installment, as a result a sum of Rs.25,70,365/- was construed as



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outstanding, for which the matter was taken before the Arbitrator, as per the arbitration clause mentioned in the agreement. On receipt of the notice from the learned Arbitrator, the appellants entered appearance on 27.11.2017 and sought time to file their written version and also sought for furnishing of the claim petition along with the documents relied upon by the first respondent to substantiate their claim. But without furnishing the copies and the supporting documents sought for by the appellants, the learned Arbitrator wrongly passed the award on 29.07.2019 in AOP No.501 of 2017 directing the appellants to pay the claim amount of Rs.25,70,365/- with interest at the rate of 18% per annum from the date of claim till the date of realisation along with costs of Rs.1,000/-. The approach adopted by the learned Arbitrator, it is pleaded, is highly objectionable and unsustainable. Therefore, the arbitral award challenged before the learned Principal District Judge, Salem ought to have been set aside. As it has not been done so, the appellants are before this Court.

3. We do not find any iota of merit in the appeal, for the following two



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good reasons. Firstly, when the matter was referred invoking the arbitration clause before the sole Arbitrator, the appellants were given opportunities to file their written version, for which the matter came to be listed on the following dates, namely, 19.03.2017, 23.04.2018, 21.05.2018, 18.06.2018, 23.07.2018, 20.08.2018, 08.10.2018, 05.11.2018, 10.12.2018, 07.01.2019, 08.04.2019, 06.05.2019, 15.07.2019. In spite of umpteen opportunities granted to the appellants, they have not chosen to file their written version or represented through their counsel to disprove the claim of the first respondent. Secondly, we can appreciate the case of the appellants had they filed their written version along with the documents. Surprisingly, neither they appeared nor filed their written version or have placed any document before the Arbitrator. Appreciating these aspects, the learned Principal District Judge, Salem has rightly affirmed the award passed by the learned Arbitrator. When the appellants were granted the aforementioned opportunities not once, twice, thrice, but umpteen times to defend the case, as highlighted above, they cannot now come and cry before this Court. Moreover, even before us also, no iota of evidence is produced to show that



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the arbitral award or the impugned decretal order is wrong. Therefore, the civil miscellaneous appeal, being devoid of any merit, is dismissed with costs throughout. Consequently, C.M.P.No.22760 of 2022 is also dismissed.

Speaking/Non speaking order

(T.R.,A.C.J.) (D.B.C.,J.)

Index : yes/no

03.01.2023

SS

To

1. The Principal District Judge
Salem



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THE HON'BLE ACTING CHIEF JUSTICE
AND
D.BHARATHA CHAKRAVARTHY,J.

SS

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