



A.No.5441 of 2023
in
Arb.O.P.(Com. Div.) No.309 of 2023

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ABDUL QUDDHOSE.J.,

Hemant Nanda

... Applicant

Vs.

M/s.Mercedes-Benz Financial Services India Pvt. Ltd.

... Respondent

This application has been filed to recall the order dated 27.07.2023 passed in Arb.O.P.(Com. Div.)No.309 of 2023. By the said order, this Court had appointed an arbitrator to adjudicate the dispute between the applicant and the respondent, arising out of the loan contract dated 07.03.2022.

2. This application has been filed on the ground that no notice was received by the applicant herein, in Arb.O.P.(Com. Div.)No.309 of 2023. In such circumstances, this application has been filed to recall the order dated 27.07.2023 passed in Arb.O.P.(Com. Div.)No.309 of 2023. In Arb.O.P.(Com. Div.)No.309 of 2023, despite service of notice on the applicant herein, he failed to enter appearance in the said O.P. Recording the no appearance of the applicant herein, in Arb.O.P.(Com. Div.)No.309 of



2023, this Court, in view of the existence of the arbitration clause, appointed an arbitrator.

3. The Affidavit of Service filed by the learned counsel for the respondent herein, in Arb.O.P.(Com. Div.)No.309 of 2023 wherein the respondent was the petitioner, confirms that the applicant has received notice in Arb.O.P.(Com. Div.)No.309 of 2023. The tracking report issued by the postal department, which has been filed along with the Affidavit of Service, confirms that the applicant received the notice in Arb.O.P.(Com. Div.)No.309 of 2023 on 18.07.2023. The order was passed by this Court in Arb.O.P.(Com. Div.)No.309 of 2023 on 27.07.2023, by which an arbitrator was appointed.

4. The applicant may contend that he did not receive notice in Arb.O.P.(Com. Div.)No.309 of 2023. But in view of the fact that the tracking report issued by the postal department confirms that the applicant had received notice in Arb.O.P.(Com. Div.)No.309 of 2023 on 18.07.2023, the contention of the applicant has to be rejected by this Court. There is no merit in this application. The order passed by this Court on 27.07.2023 in



Arb.O.P.(Com. Div.)No.309 of 2023 cannot be recalled. In the result, this application is dismissed.

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17.10.2023

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