



C.R.P.(PD)(MD)No.1568 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 13.03.2024

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THE HON'BLE MR. JUSTICE MUMMINENI SUDHEER KUMAR

C.R.P.(PD)(MD)No.1568 of 2021
and C.M.P.(MD)No.8591 of 2021

1.M.Jeyalakshmi
2.P.Pandikumar

... Petitioners

Vs.

1.M/s.Shriram Transport Finance
Company Limited,
Represented by its
Authorized Representative S. Surendran

2.K.T. Stalin Selvaraj,
Sole Arbitrator, Door No. 172,
A.R.Muthalali Nagar,
V.M. Chathiram Maharaja Nagar Post,
Palayamkottai, Tirunelveli – 11.

... Respondents

PRAYER: Petition filed under Section 227 of Constitution of India praying to call for the entire records pertaining to the impugned order passed in the Unnumbered Arbitration Original Petition of 2021 on the file of the learned Principal District Judge, Virudhunagar @ Srivilliputhur, dated 10.08.2021



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and to set-aside the impugned rejection order and consequently direct the learned Judge to number the Arbitration Original Petition.

For Petitioners : Mr.C.M.Arumugam

For Respondents : Mr.Ananth C.Rajesh
R2 No Appearance

ORDER

C.R.P.(MD)No.1568 of 2021 is directed against the order dated 10.08.2021 passed in an unnumbered AROP of the year 2021 by the Principal District and Sessions Judge, Virudhunagar District at Srivilliputhur. The said arbitration OP was filed by the petitioners herein under Section 34(1) of the 'Arbitration and Conciliation Act, 1996' (hereinafter referred to as 'the Act 1996' for the sake of convenience) against the award dated 25.08.2018 passed by the respondent No.2 herein.

2. The learned District Judge, having taken note of the provisions contained in Section 34(3) of the Act 1996 to the effect that the limitation prescribed under the said provision would commence only from the date a



signed copy of the award is delivered to the party making the application for setting aside the said award, passed the order under revision by taking into consideration the date of award for the purpose of considering the date of award as the starting point of limitation.

3. From the perusal of the order under revision, it appears that the learned District Judge carried away by the fact that the petitioners herein have filed an application to set aside the *ex parte* award by filing an application before the learned Arbitrator on 21.12.2020 and thereby concluded that the said AROP was filed beyond the period of 120 days that too without there being any condone delay application to condone the delay in filing the said AROP. From the perusal of the AROP filed before the court below, it is noticed that there is a specific ground raised which reads as under:

“X.The impugned award was not served by the arbitrator in accordance with the Act till date and hence he had procured the same from the executing Court.”



Based on the above, it is evident that the petitioners herein obtained a copy of the award from the executing Court. The mere knowledge about the award passed by the respondents No.2 / sole arbitrator cannot be taken into consideration as the starting point of the limitation, in view of the mandates under Section 34(3) of the Act 1996. Thus, the limitation would start only from the date on which a signed copy of the award is served on the party to the arbitration proceedings.

4. In view of the specific stand taken by the petitioners in the AROP that the signed copy of the award is not served upon them, the learned District Judge is not justified in taking into consideration either the date of award or the date of filing an application to set aside the *ex parte* award as starting point of the limitation and such an approach, is not in accordance with law.

5. At this stage, it is also necessary to notice the submissions made by the learned counsel appearing for the respondents. The learned counsel for the respondents contended that the respondents herein have communicated the signed copy of the award to the petitioners herein and the same was duly



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acknowledged by the petitioners herein as directed by the respondent No.2.

The learned counsel also placed before this Court a copy of the postal acknowledgment said to have been signed by the petitioners herein. However, the learned counsel for the petitioners herein disputed the said acknowledgement.

6. In view of the above, this Court is not inclined to examine whether the petitioners herein have received a signed copy of the award or not. It is for the respondents herein to take all such pleas once AROP is numbered before the learned District Court.

7. In the light of the above, the order under revision refusing to number the AROP on the ground of delay cannot be sustained.

8. From the contents in the AROP filed before the learned trial Court and the material therein, it *prima facie* appears that the said AROP filed within time as the signed copy of the award is stated to be not served on the petitioners herein as required under the provisions of the Act 1996. Hence, the learned Principal District and Sessions Judge, Virudhunagar District,



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Srivilliputhur is directed to number the AROP. Once AROP is numbered, it is open for the respondents herein to take all such plea that are available under law including about the limitation aspect and in case, such an issue relating to limitation is raised, the learned District Judge shall consider the same as preliminary issue before entering upon the merits of the main case.

9. This Civil Revision Petition is accordingly allowed subject to the observations made above. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

13.03.2024

NCC : Yes/No
Index : Yes/No

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To

- 1.The Principal District Court, Virudhunagar at Srivilliputhur.
- 2.The Record Keeper,
V.R.Section,
Madurai Bench of Madras High Court, Madurai.



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MUMMINENI SUDHEER KUMAR, J.

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