



Arb.OP.(comdiv) No.140 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.06.2025

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THE HONOURABLE **MR.JUSTICE ABDUL QUDDHOSE**

Arb.O.P.(Comm.Div.) No.140 of 2024

Sri P.Jayachandra Reddy .. Petitioner

-VS-

1.The Repatriates Co.op. Finance
and Development Bank Ltd.,
called as “REPCO Bank”,
Chennai.

3.P.Kalyan .. Respondents

Petition under Section 34 of the Arbitration and Conciliation Act, 1996, has been filed seeking to set aside the arbitral award dated 15.09.2023 passed by the Sole Arbitrator in ARC No.6 of 2022 in the arbitration between the petitioner and the first respondent.

For Petitioner : Mr.C.V.Subramanian

For R1 : Mr.A.Ilangovan



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ORDER

This petition has been filed under Section 34 of the Arbitration and Conciliation Act, 1996, challenging the impugned arbitral award passed under the provisions of the Multi-State Co-operative Societies Act, 2002 (in short “MSCS Act”) on the ground that the Arbitrator who has passed the impugned arbitral award was unilaterally appointed by the first respondent/claimant. Under the impugned arbitral award, the petitioner has been directed to pay a sum of Rs.67,79,148/- to the first respondent along with interest at the rate of 9% per annum on the claim amount from 01.12.2021 till the date of realization in full. The Arbitrator has also granted time to the petitioner to make payment within a period of 90 days from the date of the award.

2. The petitioner had borrowed money from first respondent/REPCO Bank and he is a defaulter in the repayment of the loan. The first respondent/REPCO Bank, being a Multi-State Co-operative Society and falling within the purview of the MSCS Act, initiated arbitration in accordance with the provisions of Section 84 of the MSCS Act by following the procedure contemplated therein. The



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Arbitrator appointed under Section 84 of the MSCS Act has passed the impugned arbitral award directing the petitioner to pay the aforesaid amount to the first respondent. Aggrieved by the impugned arbitral award dated 15.09.2023 passed by the Arbitrator in ARC.No.6 of 2022, this petition has been filed under Section 34 of the Act.

3. The petitioner has challenged the impugned arbitral award on the ground that the Arbitrator who has passed the impugned arbitral award was appointed unilaterally by the first respondent, which is not legally permissible as per the law laid down by the Hon'ble Supreme Court in the following decisions:-

(a) Central Organization for Railway Electrification Vs. M/s/ECI SPIC SMO MCML (JV) A joint venture company [2024 SCC Online SC 3654]; and

(b) Perkins Eastman Architects DPC and another vs. HSCC (India) Limited [(2020) 20 SCC 760]

4. By relying upon the aforesaid decisions, the learned counsel for the petitioner would submit that since the arbitral award has been passed

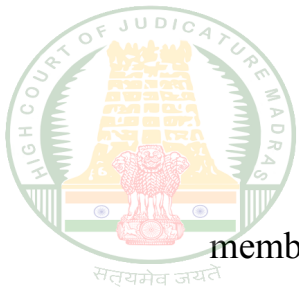


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by an Arbitrator appointed unilaterally by the first respondent, the impugned arbitral award has to be set aside by this Court, in view of the law laid down by the Hon'ble Supreme Court in the aforesaid decisions.

5. On the other hand, the learned counsel for the first respondent would submit that the aforesaid decisions have no applicability to the facts of the instant case. He would submit that the first respondent being a Multi-State Co-operative Society, the MSCS Act has to be applied and only accordance with the said statute, the arbitration was initiated and the Arbitrator has passed the impugned arbitral award. He would also submit that as seen from the proceedings of the Arbitrator who has passed the impugned arbitral award, the petitioner had only sought time to make payment and even in the counter affidavit, merits of the claim made by the first respondent was not disputed.

6. The learned counsel for the first respondent also drew the attention of this Court to Section 84 of the MSCS Act, which also contemplates the procedure in case of any dispute arising between the Multi-State Co-operative Society and its member. The petitioner being a



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member of the first respondent/Multi-State Co-operative Society, he is bound by the provisions of the MSCS Act. He would also submit that only as per the procedure contemplated under Section 84 of the MSCS Act, the arbitration was initiated and the Arbitrator was appointed by the Registrar of Co-operative Societies, who is the competent authority to appoint an Arbitrator, and the said Arbitrator has also passed the impugned arbitral award. Therefore, he would submit that the decisions relied upon by the learned counsel for the petitioner, cited supra, have no applicability to the facts of the instant case, as those decisions are not dealing with the provisions of the MSCS Act, which provides for a special procedure for initiating arbitration under Section 84 of the MSCS Act.

DISCUSSION:

7. Admittedly, the first respondent is a Multi-State Co-operative Society falling within the purview of the MSCS Act. The said fact is also not disputed by the learned counsel for the petitioner during the course of his submissions. It is an admitted fact that the petitioner is a member of the first respondent/Multi-State Co-operative Society. It is



also an admitted fact that the petitioner had borrowed money from the first respondent and he is a defaulter in the repayment of the loan to the first respondent.

8. Chapter IX of the MSCS Act deals with the settlement of disputes. Section 84 of the MSCS Act falls under the said chapter. Section 84 of the MSCS Act dealing with reference of dispute to arbitration is extracted hereunder:-

84. Reference of disputes. — (1)

Notwithstanding anything contained in any other law for the time being in force, if any dispute other than a dispute regarding disciplinary action taken by a multi-State co-operative society against its paid employee or an industrial dispute as defined in clause (k) of section 2 of the Industrial Disputes Act, 1947 (14 of 1947) touching the constitution, management or business of a multi-State co-operative society arises—

(a) among members, past members and persons claiming through members, past members and deceased members, or

(b) between a member, past member and persons claiming through a member, past member or



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deceased member and the multi-State co-operative society, its board or any officer, agent or employee of the multi-State co-operative society or liquidator, past or present, or

(c) between the multi-State co-operative society or its board and any past board, any officer, agent or employee, or any past officer, past agent or past employee, heirs or legal representatives of any deceased officer, deceased agent or deceased employee of the multi-State co-operative society, or

(d) between the multi-State co-operative society and any other multi-State co-operative society, between a multi-State co-operative society and liquidator of another multi-State co-operative society or between the liquidator of one multi-State co-operative society and the liquidator of another multi-State co-operative society,
such dispute shall be referred to arbitration.

(2) For the purposes of sub-section (1), the following shall be deemed to be disputes touching the constitution, management or business of a multi-State co-operative society, namely:—

\ (a) a claim by the multi-State co-operative society for any debt or demand due to it from a member or the nominee, heirs or legal representatives of a deceased member, whether such



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debt or demand be admitted or not;

(b) a claim by a surety against the principal debtor where the multi-State co-operative society has recovered from the surety any amount in respect of any debt or demand due to it from the principal debtor as a result of the default of the principal debtor, whether such debt or demand is admitted or not;

(c) any dispute arising in connection with the election of any officer of a multi-State co-operative society.

(3) If any question arises whether a dispute referred to arbitration under this section is or is not a dispute touching the constitution, management or business of a multi-State co-operative society, the decision thereon of the arbitrator shall be final and shall not be called in question in any court.

(4) Where a dispute has been referred to arbitration under sub-section (1), the same shall be settled or decided by the arbitrator to be appointed by the Central Registrar.

(5) Save as otherwise provided under this Act, the provisions of the Arbitration and Conciliation Act, 1996 (26 of 1996) shall apply to all arbitration under this Act as if the proceedings for arbitration were referred for settlement or decision under the



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provisions of the Arbitration and Conciliation Act,
1996.

9. Admittedly, in the case on hand, a dispute has arisen between the first respondent/Multi-State Co-operative Society and the petitioner, who is its member. Section 84(b) of the MSCS Act also makes it clear that arbitral reference contemplated under Section 84 of the MSCS Act applies to a dispute arising between the Multi-State Co-operative Society and any of its members. The case on hand is one such dispute between the first respondent/Multi-State Co-operative Society and its member (petitioner). The said fact is also not disputed by the learned counsel for the petitioner during the course of his submissions.

10. In view of the non-payment of the dues to the first respondent, the first respondent has followed the procedure contemplated under Section 84 of the MSCS Act by referring the dispute to arbitration and the Arbitrator was also appointed by the competent authority, namely, Registrar of Co-operative Societies, who has been appointed as per S.O.No.216(E), Department of Agriculture and Co-operation, Ministry of Agriculture, dated 24.02.2003. Section 84(5) of the MSCS Act also



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makes it clear that only when the MSCS Act does not provide any procedure for settlement of disputes, the provisions of the Arbitration and Conciliation Act, 1996, shall come into play. In the case on hand, Section 84(4) of the MSCS Act contemplates a special procedure for initiating arbitration and for passing of the arbitral award, and therefore, the provisions of the Arbitration and Conciliation Act, 1996, shall not apply to the present arbitration, which has culminated in the passing of the impugned arbitral award.

11. Section 84 of the MSCS Act provides a framework for arbitration in disputes involving Multi-State Co-operative Societies. This section is particularly relevant when addressing the appointment of arbitrators and the conduct of arbitration proceedings under the MSCS Act. The provisions of Section 84 of the MSCS Act provides a specific mechanism for the appointment of the arbitrators, which is distinct from the general provisions under the Arbitration and Conciliation Act, 1996. Section 84 of the MSCS Act gives it an overriding effect, meaning that its provisions take precedence over conflicting provisions in the Arbitration and Conciliation Act, 1996.



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WEB COPY 12. The decisions relied upon by the learned counsel for the petitioner, cited supra, did not deal with the statutory arbitration provided under the MSCS Act. Therefore, the reliance by the learned counsel for the petitioner upon Section 12(5) of the Arbitration and Conciliation Act is also not applicable to the facts of the instant case. In the case on hand, the impugned arbitral award has been passed only in accordance with Section 84 of the MSCS Act. It is also to be noticed from the proceedings recorded by the Arbitrator who has passed the impugned arbitral award that the petitioner had initially only sought time for making the payment to the first respondent. Eventhough several other grounds have been raised in this petition filed before this Court, the said grounds have not been argued/canvassed by the learned counsel for the petitioner. His only ground of attack is with regard to the passing of the impugned arbitral award by an Arbitrator appointed unilaterally by the first respondent/Multi-State Co-operative Society. Since the said issue has been answered against the petitioner by this Court in view of the fact that the impugned arbitral award was passed only in accordance with law by following the due procedure established under Section 84 of the



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MSCS Act, and the said arbitration being a statutory arbitration, this Court is not inclined to interfere with the impugned arbitral award.

13. For the foregoing reasons, this Court does not find any merit in this petition and accordingly, this petition is dismissed. No Costs.

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Index:yes/no
Neutral citation: yes/no



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ABDUL QUDDHOSE, J.

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