



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11-11-2025

CORAM

THE HONOURABLE MR JUSTICE N.ANAND VENKATESH

OP No.36 of 2021

M/s Sri Sai Balaji Gas Cylinders Ltd.,
Rep.by its Managing Director
Mr.M.Muruganandam
No.30/21, Dev Apartments
First Main Road, Gandhi Nagar
Adyar, Chennai 600 020

Petitioner

Vs

Mr.D.Bala Ravi Chandrudu
S/o.D.Bala Raju
H.No.188/C, Vengalrao Nagar
Backside, Meesava S.R.Nagar
Hyderabad, Telengana 500 039

Respondent

PRAYER

To set aside the award dated 25.01.2020.

For Petitioner: Mr.S.Parthasarathy
Senior Counsel for
Mr.P.Dinesh Kumar

For Respondent: Mr.GR.M.Palaniappan

**ORDER**

WEB COPY This original petition has been filed under Section 34(2)(b)(ii) & (2A) of the Arbitration and Conciliation Act, 1996 (for brevity, hereinafter referred to as “the Act”) against the award passed by the sole Arbitrator dated 25.01.2020.

2. The petitioner, who is the claimant, submitted a claim petition before the sole Arbitrator on the ground that they are engaged in the manufacture and supply of cylinders used for filling Liquified Petroleum Gas (LPG). The petitioner entered into a lease agreement on 27.07.2016 with the respondent and as per clause 2 of the lease agreement, the respondent must ensure the availability of funds for the manufacturing activities. The running expenses such as electricity, maintenance, etc., were to be borne by the respondent. As per clause 3 of the agreement, the consideration for the lease was to be adjusted from the profit and the respondent was permitted to use the registered office of the claimant at Chennai. The respondent had invested a sum of Rs.1,51,62,000/- in the business, which amount was mustered by the respondent from various third parties. The respondent defaulted in payment of their statutory dues by failing to honour the suppliers on time resulting in the piling of the unpaid bills. The petitioner was branded as a defaulter and it resulted in the stoppage of production on 15.01.2017.



3. The petitioner, by letter dated 16.03.2017, terminated the lease agreement. A criminal case came to be lodged by the respondent and the petitioner has come out with a case that nearly Rs.1,43,50,000/- was disbursed to various third parties, who had invested in the business after the termination of the lease agreement. While so, the Managing Director of the petitioner company was arrested in the course of investigation in Crime No.56 of 2017 and taking advantage of the same, blank cheques were obtained from the wife of the Managing Director.

4. The Managing Director of the petitioner company came out on bail and filed a suit in O.S.No.4355 of 2017 before the XI Assistant City Civil Court, Chennai seeking for an injunction against the respondent from encashing the blank cheques, which were obtained under coercion and threat.

5. The petitioner invoked the arbitration clause under the lease agreement dated 27.07.2016. A sole Arbitrator came to be appointed and the petitioner submitted the following claims before the sole Arbitrator:-

“a. Decree the claim against the respondent for a sum of Rs.3,88,46,317/- (Rupees Three crores eighty eight lakhs forty six thousand three hundred and seventeen rupees only);

b. Award interest on the aforesaid principal sum at 12% from the date of accrual of the cause of action i.e., on 16.03.2017 till the date of award and future interest at 18% from the date of award



till the date of payment;

c. To award the costs of these proceedings as per Section 31-A of the Arbitration and Conciliation Act, 1996.”

6. The respondent refuted all the claims made by the petitioner and also made a counter claim for a sum of Rs.5,16,00,000/- and also a sum of Rs.2,00,00,000/- towards the mental agony.

7. The sole Arbitrator, on considering the rival claims, framed the following issues:-

“i) Whether the Respondent has committed breach of the lease agreement dated 27.06.2016?

ii) Whether the Respondent is due and liable to pay the Claimant a sum of Rs.3,88,46,370/- together with interest?

iii) Whether the Respondent is entitled to the counter claim of Rs.5,16,00,000/- as claimed?

iv) Whether the Respondent is entitled for compensation of Rs.2 crores towards mental agony as claimed?

v) To what other reliefs are the parties entitled?”

8. The claimant examined CW1 and CW2 and marked Exhibits C1 to



C19. The respondent examined RW1 and marked Exhibits R1 to R20.

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9. The sole Arbitrator, on considering the facts and circumstances of the case and considering the evidence let in by both sides, rejected the claim petition filed by the petitioner and allowed the counter claim made by the respondent to the tune of Rs.1,57,62,000/- along with interest at the rate of 18% from the date of counter claim till the date of award. Aggrieved by the same, the present petition has been filed by the claimant under Section 34 of the Act.

10. Heard the learned Senior Counsel appearing on behalf of the petitioner and the learned counsel appearing on behalf of the respondent.

11. The sole Arbitrator has rejected the claim petition, mainly on the ground that it is the Managing Director of the petitioner company who had committed breach of the lease agreement and had appropriated payments of the oil corporations in his bank account. This finding was rendered by the sole Arbitrator based on the discussion found from paragraphs 6.1 to 6.10. These findings are based on the evidence that was let in by the parties and this Court cannot sit on appeal and deal with these findings, since these findings do not suffer from perversity or patent illegality.

12. The learned Senior Counsel appearing on behalf of the petitioner



mainly focussed his arguments only on the counter claim that was awarded by the sole Arbitrator. The learned Senior Counsel submitted that admittedly the respondent did not make any investment in the company and nearly 30 persons had contributed based on the request made by the respondent. The petitioner took a very specific stand that the amounts were repaid to the investors and to substantiate the same, Ex.C4 was marked. It is contended that the sole Arbitrator did not take this document into consideration and has arrived at a conclusion as if the respondent had invested the money through others and therefore the respondent is entitled for the counter claim. The learned Senior Counsel submitted that this finding suffers from perversity and patent illegality.

13. Per contra, the learned counsel for respondent submitted that the petitioner has admitted to the fact that the investment was made by the friends and family members of the respondent and the petitioner had violated clause 12 of the lease agreement and therefore the petitioner has to necessarily make the payment along with interest.

14. The sole Arbitrator has come to a conclusion that the respondent has invested a sum of Rs.3,00,00,000/-, which is evident from the bank account statement and this amount was invested by various investors numbering nearly 30 and this was admitted by the petitioner. The petitioner has only filed self serving documents without proving that the petitioner has repaid the amount



and in view of the same, the sole Arbitrator came to a conclusion that a sum of Rs.1,57,62,000/- has to be paid by the petitioner to the respondent towards the counter claim along with interest.

15. The above finding of the sole Arbitrator has to be tested by keeping in mind the limited scope of interference under Section 34 of the Act and this Court must see if the above finding suffers from perversity and patent illegality.

16. While undertaking this exercise, this Court must keep in mind the judgment of the Apex Court in the case of ***OPG Power Generation Private Limited v. Enxio Power Cooling Solutions India Private Limited and another***, reported in ***(2025) 2 SCC 417***, wherein the Apex Court, by taking into account the earlier judgment in ***Delhi Metro Rail Corporation Limited v. Delhi Airport Metro Express Private Limited*** reported in ***(2024) 6 SCC 357***, made it clear that a finding based on no evidence or an award which ignores vital evidence in arriving at its decision, would be perverse and will be liable to be set aside under the head of patent illegality.

17. In the case on hand, there is no dispute with regard to the fact that the investment was done only by third parties and not by the respondent. In fact, this was even admitted by the petitioner in the suit that was filed in O.S.No.4355 of 2017. The petitioner took a stand that he has repaid back to the



investors to the tune of Rs.1,55,00,000/-. The details of the same were also provided in Ex.C4.

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18. RW1, in his evidence, clearly admitted that he is not the investor in the company and he does not know the exact amount that was invested and that the investment was made by others on the request made by RW1. He further admits that there is no proof to show that he has made any investment in the company. In fact, for one of the questions that was put to RW1 during cross examination, he goes to the extent of saying that the claimant has repaid Rs.80 or 84 lakhs to the investors who had put in money in Sai Balaji.

19. It must be borne in mind that even if Ex.C4 is not relied upon, it is the respondent who is making the counter claim and the burden of proof is upon the respondent to establish that the investors were making their claim for refund of money that was invested by them and that either the respondent had paid that amount to the investors and claiming it from the petitioner or the respondent is seeking for payment of the amount from the petitioner in order to hand it over to the investors. Curiously, the respondent was seeking for the amount in his favour when he has admitted that he has not made any investment in the business.

20. The petitioner has specifically denied the counter claim made by the



respondent and has taken a stand that he has repaid back the investors and he has also relied upon Ex.C4 for this purpose. Therefore, the burden of proof was upon the respondent to establish that he is seeking for the counter claim either because he has settled the investors or he is going to receive the amount and settle the investors. Since this fundamental fact was not established, it is too far fetched for the respondent to seek for the counter claim, without even making any investment in the company.

21. The provisions of the Indian Evidence Act may not apply before the Arbitral Tribunal. However, the principles of the Evidence Act will be applicable even in the arbitration proceedings. Thus, the concept of burden of proof will be very much applicable even during the arbitration proceedings. If the respondent has not discharged that burden of proof, the burden does not shift to the petitioner and hence the counter claim made by the respondent has to be rejected on that ground.

22. The sole Arbitrator has gone on the premise that the respondent is entitled for the counter claim, without even appreciating the fact that the respondent has not made any investment and the respondent is not seeking for the counter claim either to settle the investors or to recover the amount from the petitioner after settling the investors. The respondent ought to have atleast marked documents to the effect that the demand was made by the investors for



repayment of the amount or at least the investors should have been examined before the sole Arbitrator. No such attempt has been made by the respondent.

Hence the finding rendered by the sole Arbitrator is supported by no evidence that was let in by the respondent. The counter claim has been granted on a mere assumption that the persons known to the respondent have invested in the business and therefore the petitioner has to make the payment to the respondent. This finding certainly suffers from perversity and hence is liable to be interfered with by this Court on the ground of patent illegality under Section 34(2-A) of the Act.

23. In the light of the above discussion, the award passed by the sole Arbitrator is sustained insofar as rejecting the claim petition filed by the petitioner; the award is set aside insofar as granting the counter claim to the respondent to the tune of Rs.1,57,62,000/- and accordingly, this original petition stands partly allowed. No order as to costs.

11-11-2025

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

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