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Arbitration Original Petition No.85 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.10.2025

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Arbitration Original Petition No.85 of 2025

and

Application No.5274 of 2025

1.D.Bharathimoha
S/o.K.Duraisamy

2.D.Jagathambal
W/o.K.Duraisamy

3.B.Ambika
W/o.D.Bharathimohan

K.Duraiswamy (deceased)

.... Petitioners

Vs.

The Repatriates Cooperative Finance &
Development Bank Ltd., called as
Repco Bank, represented by its
Authorized Signatory No.33,
North Usman Road,
T.Nagar, Chennai.

.... Respondent

Arbitration Original Petition filed under Section 34 of the Arbitration and Conciliation Act, 1996, praying to set aside the arbitral award dated 27.03.2025 bearing No.ARC 197 of 2023 passed by sole arbitrator in its entirety.

For Petitioners : Mr.M.Karunanantham



ORDER

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This petition has been filed under Section 34 of the Arbitration and Conciliation Act, 1996, challenging the award passed by the sole arbitrator under the Multi State Cooperative Societies Act, 2002.

2. This Court heard learned counsel for petitioners and carefully perused the materials available on record.

3. The respondent bank is registered under the Multi State Cooperative Societies Act, 2002. The petitioners availed loan facility. The first petitioner is the borrower, the second petitioner is the co-borrower and the third petitioner is the guarantor. There was yet another guarantor, who was shown as the fourth respondent in the claim petition and it is stated that the fourth respondent died even during the pendency of the case.

4. The claim petition was filed by the respondent bank for recovery of a sum of Rs.2,49,21,549/- along with interest.

5. When the matter was listed for enquiry, the case was



adjourned from time to time and the same is evident from the proceedings of the sole arbitrator and for proper appreciation, the same is extracted hereunder:

"However, the Respondent Nos.1, 2 & 3 had appeared later through their counsel Mr.E.Sathiyaraj and sought time for settling the loan account, but have not filed any counter in all subsequent hearings i.e., 25.03.2024, 20.04.2024, 15.06.2024, 20.07.2024, 31.08.2024, 02.11.2024, 16.11.2024, 30.11.2024 and remained absent inspite of receipt of hearing Notice on 15.02.2025 and 15.03.2025. Hence, the matter was reserved for passing award. On 27.02.2025 the Respondent No.1 had submitted a letter requesting permission for personal appearance in next hearing, if posted. **(marked as Exhibit B1)**. Considering the request submitted by the respondent No.1 vide his letter dated 27.02.2025, a fair opportunity was given to the respondent and summons was served accordingly for appearance on 15.03.2025. Inspite of receipt of Notice of hearing by Respondent No.1, 2, 3 & 4, the respondents failed to appear in person on 15.03.2025. They were called absent. Hence, the tribunal has no other option but to reserve the matter for orders."

6. In view of the above, the petitioners were set *ex parte* and the sole Arbitrator proceeded to deal with the claim made by the respondent bank. The respondent bank had marked totally 24 documents (A1 to A24). The sole Arbitrator, on considering all the documents, came to a conclusion that the claim has been proved and passed the award to the effect that the petitioners are liable to pay a sum of Rs.3,14,55,032/- as on 30.06.2023. Interest at 9% p.a. was also directed to be paid from



01.07.2023 till the recovery of the amount. Aggrieved by the above award, the present petition has been filed before this Court.

7. Learned counsel for petitioners submitted that the petitioners were never given an opportunity and therefore, the award suffers from violation of principles of natural justice. Learned counsel further submitted that the fourth respondent in the claim petition was not alive and in spite of the same, the fourth respondent was set *ex parte* and the award was passed even as against the fourth respondent.

8. In the considered view of this Court, the petitioners were given repeated opportunities before the sole Arbitrator and they had not chosen to contest the case. It is seen that at least on ten hearings, the sole Arbitrator was patiently waiting for the petitioners to either settle the amount or to contest the case. For some reason, when the matter was taken up for hearing on 15.03.2025, a new counsel came into the picture and stated that he has come by way of change of vakalath and once again time was sought. Learned sole Arbitrator rightly rejected the request and proceeded to deal with the matter. Hence, this Court finds that the petitioners have brought about a situation against themselves and are



now trying to turn around and complain that there is violation of principles of natural justice. If the petitioners do not choose to contest the case, they cannot be allowed to take a ground that they were not given opportunity to contest the claim. Such a ground raised is bereft of merits.

9. The other issue raised by learned counsel for petitioners is that one of the respondent in the claim petition *viz.*, fourth respondent died even during the proceedings, however, the award was passed even as against the fourth respondent. On going through the award, it is seen that the sole Arbitrator was not informed about the demise of the fourth respondent. Therefore, if that information is not provided to the sole Arbitrator, he cannot presume that the fourth respondent had died. Therefore, the sole Arbitrator has proceeded to set *ex parte* even the fourth respondent in the claim petition. Even otherwise, the award will stand abated insofar as the fourth respondent in the claim petition is concerned. However, the award will bind the petitioners herein.

10. In the light of the above discussion, this Court finds that the award does not suffer from any perversity or patent illegality

N.ANAND VENKATESH, J.



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warranting interference of this Court. There is absolutely no merits in this petition.

Accordingly, this petition is dismissed. Consequently, connection application is also dismissed.

29.10.2025

Index:yes/no

NCC:yes/no

Speaking Order/Non-speaking order

gm

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