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Arb O.P(COM.DIV.) No. 633 of
2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24-10-2025

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THE HONOURABLE MR JUSTICE N. ANAND VENKATESH

Arb O.P(COM.DIV.) No. 633 of 2025

AND

A NO. 5159 OF 2025

1. Union of India
Ministry of Railways,
Integral Coach Factory (ICF),
Represented by the Principal
Chief Engineer, Furnishing/ Shell
Division, ICF Colony, Perambur,
Chennai - 600 038.

2. The Deputy chief Engineer
Furnishing/ Shell Division,
Integral Coach Factory (ICF), ICF
Colony, Perambur,
Chennai - 600 038.

Applicant(s)

Vs

1. M/s.Sri Pavithra Constructions
Shell division ICF
COLONY,PERAMBURNo.7/624,
Surya Nagar, Railway Kodur,
Annamayya District, Andhra
Pradesh - 516 101.

Respondent(s)

PRAYER

To set aside the Arbitral Award dated 28.03.2025 passed by the Sole Arbitrator Mr. N.S.N.Murthy in reference of Arb. No.27 of 2024/



Not.10 with reference to the agreement No.ICF/2039 dated 17.02.2020 and pass such other suitable orders as it may deem fit and proper in the facts and circumstances of the case and thus render justice.

For Appellant(s): Mr.Venkatesan V
For Respondent:

ORDER

This petition has been filed under Section 34 of the Arbitration and Conciliation Act, 1996 [For brevity herein after called as the “Act”] challenging the award passed by the Sole arbitrator dated 28.03.2025.

2. This is a curious case where the respondent was supposed to file a claim petition before the sole arbitrator pursuant to the termination notice issued by the petitioner on 16.05.2023. However, the respondent failed to communicate his statement of claim in accordance with Section 23(1) of the Act. Hence, the learned Arbitrator gave a finding that the respondent has not even filed the statement of claim and therefore, there is no need for adjudicating any claim of the respondent. After having held so, the sole arbitrator has proceeded to decide the counter claim of the petitioner and rejected the same. The said award has been put to challenge in the



present petition filed under Section 34 of the Act.

3. Heard the learned counsel for the petitioner and carefully perused the materials available on record.

4. The award passed by the sole arbitrator is on the face of it illegal and non-est in the eye of law. Therefore, there is no need for sending notice to the respondent, since the respondent has not even chosen to file the statement of claim and prosecute the matter before the Arbitrator.

5. The respondent was expected to communicate his statement of claim in accordance with Section 23(1) of the Act. If the same is not done, Section 25(a) provides that the Arbitral Tribunal shall terminate the proceedings. Hence, if the respondent has not chosen to submit his statement of claim, the only other option that was available for the sole arbitrator was to terminate the proceedings. There is no occasion for the sole arbitrator to go into the so called counter claim made by the petitioner since the claim itself is not before the Sole Arbitrator.

6. This is not a case where a claim petition was filed and



while filing the statement of claim, a counter claim was made. In such a scenario, even if the claim is terminated, the arbitrator can proceed further with the counter claim independently. In the case in hand, the statement of claim itself was not before the sole arbitrator and there was nothing for the arbitrator to proceed further in this case and it should have automatically resulted in termination of proceedings. Instead, the Arbitrator has assumed jurisdiction by treating the so called counter claim as a claim made by the petitioner and decided it independently. It is an admitted case that the petitioner was not the claimant before the sole arbitrator. Therefore, it was beyond the jurisdiction of the sole arbitrator to have assumed that the counter claim of the petitioner must be treated as a claim and proceed to adjudicate the same.

7. The award passed by the sole arbitrator is in conflict with public policy since it contravenes the fundamental policy of Indian law and it is in violation of the provisions of the Arbitration Act. Consequently, it also suffers from patent illegality. Hence the award falls foul of Section 34(2) (b) (ii) and 34 2A of the Act.



8. In the result, the award passed by the sole Arbitrator dated 28.03.2025 is hereby set-aside and this Arbitration Original Petition is allowed. No costs. Consequently, the connected application is closed.

24-10-2025

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Index:Yes

Speaking order

Internet:Yes

Neutral Citation:Yes



To

WEB COUNCIL

1.M/s.Sri Pavithra Constructions
No.7/624, Surya Nagar, Railway
Kodur, Annamayya District,
Andhra Pradesh - 516 101.

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N.ANAND VENKATESH J.
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