

**IN THE COURT OF THE PRINCIPAL DISTRICT JUDGE,
MADURAI**

**PRESENT: THIRU.M.SAISARAVANAN, M.L.,
PRINCIPAL DISTRICT JUDGE
MADURAI**

Tuesday, this the 14th day of July, 2026

**Arbitration Original Petition No.187/2019
(CNR No. TNMD01-007307-2019)**

1. K.Rajendran

2. Kannan

...Petitioners/Respondents

/Vs./

1. Shriram Transport Finance Co., Ltd.,
T.Vadipatti.

2. Mr. P. Natarajan,
Sole Arbitrator, Madurai.

...Respondents/Claimants

This petition is coming up for final hearing on 22.06.2026 in the presence of Thiru.P.Karthick, Learned Counsel for the petitioners, and of Thiru.R.Shankar Ganesh, Learned Counsel for the 1st respondent and 2nd Respondent called absent set exparte and upon hearing the arguments of both side counsels and upon perusing the material records and the Judgment and decree of the trial court, and having stood over for consideration till date, this court pass the following. . .

ORDER

This petition has been filed under Section 34 of Arbitration and Conciliation Act 1996 to set aside the award passed in Arbitration Petition No.432/2017 dated 16.02.2019.

2. BRIEF FACTS OF CASE:-

The 1st respondent is a public limited company carrying on business of Hire Purchase, Lease and Loan cum Hypothecation in respect of vehicles. The petitioners approached the 1st respondent for loan facility to purchase a vehicle bearing Registration No.TN 59 AY 2538 TATA Indica, 2009 model in the month of March 2013. The 2nd respondent is alleged to be the arbitrator appointed by the 1st respondent without the knowledge of the petitioners and petitioners came to know about the arbitrator only after receiving the arbitral award in the arbitration proceedings and the initial appointment of the arbitrator is against law. The petitioners are the respondents in the Arbitration Petition No. 432/2017 filed by the 1st respondent in this appeal. The 1st respondent filed A.P.No.432/2017 to pass an award directing the petitioners to pay the payment of interest on the claim amount @ 18% p.a., from the date of the claim petition till the date of realization an amount of Rs.2,14,311/- from 16.02.2019 and the learned Arbitrator, the 2nd respondent has passed an award dated 16.02.2019 in

favour of the 1st respondent directing the petitioners to pay an amount of Rs.2,92,802/- with interest at 18% p.a., on Rs.2,14,311/- from 16.02.2019 till the date of the payment with cost.

3. Aggrieved against the award passed by the 2nd respondent dated 16.02.2019, the appellants has preferred this present appeal.

4. POINTS FOR CONSIDERATION:-

Whether the award passed by the 2nd respondent in Arbitration Petition No. 432/2017, dated 16.02.2019, is liable to be set aside?

5. POINT :-

This Arbitration Original petition has been filed to set aside the award passed by the Sole Arbitrator, Madurai in Arbitration Petition No.432/2017 dated 16.02.2019. The petitioners herein are the respondents in the Arbitration proceedings before the sole Arbitrator. The 1st petitioner herein seems to borrow a sum of Rs.1,60,000/- from the 1st respondent herein for purchase of TATA Indica Car and executed a loan cum hypothecated agreement dated 19.03.2016 agreeing to repay the total agreement value of Rs.2,02,988/- in 24 monthly installments at Rs.8,708/- towards the 1st month, Rs.8,600/- towards 2nd to 10th month each, Rs.7,900/- towards 11th and 12th month each, Rs.8,900/- towards 13th to 22nd month each, Rs.7,900/- towards 23rd month and Rs.4,180/- towards the last month

installment. The 2nd petitioner stood as a guarantor for the 1st petitioner. It seems that the 1st petitioner herein has committed some default in payment of installments for which the respondent herein has made a claim petition before the sole Arbitrator against the petitioners herein as agreed by the parties in the loan cum hypothecation agreement in which sole Arbitrator by his award dated 16.02.2019 directed the petitioners 1 and 2 herein to pay jointly and severally the respondent herein, who is claimant in the claim petition before the Arbitrator, a sum of Rs.2,92,802/- with further interest at 18% p.a., on Rs.2,14,311/- from 16.02.2019 till final payment with cost which is now under challenge by way of the present petition. Though the petitioners have raised several grounds challenging the award passed by the Arbitrator, the main contention of the petitioners is that the petitioners were not put in proper notice either about the appointment of arbitrator or about the arbitral proceedings and without providing sufficient notice to the petitioners *ex parte* arbitral award has been passed and as such the award is liable to be set aside. Therefore, the point for determination of the appeal is that whether the grounds raised by the petitioners to set aside the arbitration award falls within any one of the reasons stated under sub clause (i) to (v) of clause (a) in sub section (2) of Section 34 of Arbitration and Conciliation

Act and whether the award passed by the sole Arbitrator needs any interference by this court.

6. Challenge under this petition is the award dated 16.02.2019 passed by the sole Arbitrator. The unsuccessful respondents in the claim petition before the Arbitrator are the petitioners herein. The petitioners/appellants though seeking to set aside the award on several grounds, except the ground that the petitioners were not provided with proper opportunity in the arbitration proceedings and they were not put in proper notice about the appointment of Arbitrator alone falls within the ambit of the reasons stated in Section 34 (2) (a) (i) to (v) of the Arbitration and Conciliation Act. Section 34 (2) (a) (iii) of the Arbitration and Conciliation Act deals about not giving of proper notice of appointment of Arbitrator or of Arbitral proceedings or the petitioners otherwise unable to present their case. Therefore, the next aspect for consideration is that whether the sole Arbitrator was appointed as agreed by the petitioners and whether the petitioners were put in notice about the appointment of Arbitrator and whether the petitioners were given proper opportunity in the arbitral proceedings to represent their case.

7. The back records of the arbitration proceedings have been called for and perused. The learned counsel for the petitioners would submit that

the petitioners are not at all aware of the arbitration proceedings. On the contrary the learned counsel for the 1st respondent would contend that a proper pre-arbitral notice was issued to the petitioners and even after commencement of the arbitration a proper notice was issued to the petitioners but despite received the notice the petitioners have not turned up to conduct the arbitration proceedings and as such they cannot claim that they were not put in proper notice about the appointment of Arbitrator and arbitral proceedings. The original award passed by the sole Arbitrator / 2nd respondent is form part of the back records. On perusal of the award the Arbitrator has stated that the claim petition filed by the claimant / respondent herein was taken on file on 24.08.2017 and notices were sent to the respondents (petitioners herein) for their appearance on 23.09.2017 in the office of the Arbitrator but the notice to the 1st respondent was returned as refused and the notice to the 2nd respondent was served. The Arbitrator had further stated that he held that the service to the 1st respondent as sufficient and set both of them exparte and after taking the claimant side evidence and after hearing the counsel for the claimant, he passed the impugned award. Therefore, it seems that the specific contention of the Arbitrator is that he issued summons to the petitioners herein, who are the respondents of the claim petition, which was refused by the 1st petitioner

and received by the 2nd petitioner and after holding the service to them held sufficient he has proceeded to pass award. But the specific contention of the petitioners herein is that as the respondents in the claim petition they never received any notice or summons to Arbitrator. So far as the pre-arbitral notice is concerned, it is the contention of the 1st respondent that in the legal notice issued to the petitioners itself it was clearly intimated that failure to make payment would entail the reference of matter to the Arbitrator as per the terms and conditions of loan cum hythecation agreement and the name of the Arbitrator is also clearly mentioned in the notice itself. On perusal of the back records received from the Arbitrator, it is found that the pre-suit legal notice dated 31.07.2017 was marked as Ex.P.4 before the Arbitration proceedings. On perusal of the said notice, it is found that the 1st respondent herein, through the said Legal notice called upon the petitioners herein to pay the balance amount due within 10 days together with further interest failing which the dispute will be referred to the Arbitrator as per the terms and conditions of the Loan cum Hypothecation Agreement. It is further informed in the said notice itself that name of the Arbitrator is Thiru.P.Natarajan, M.A., LLB. The address details of the Arbitrator is also found mentioned in the detailed notice itself. Though the xerox copy of postal receipts for sending the above said legal

notice to the petitioners herein is form part of the record, the acknowledgment card for receipt of the said legal notice is also found along with the records which reveals that the 1st petitioner herein has received the said legal notice. However he has not seems to issued any reply raising objections for appointment of Thiru.P.Natarajan as a sole Arbitrator to conduct the arbitration proceedings. In the loan cum hypothecation agreement marked as Ex.P.2 in the Arbitration proceedings also it is found that the petitioners herein have agreed to settle by the Arbitrator in the arbitration to be held in Madurai. Therefore, it is clear that the petitioners herein were put in proper notice about the appointment of Arbitrator by furnishing details of the Arbitrator in the pre-suit legal notice itself and despite receipt of the said notice they have neither replied nor raised any objection for appointing Thiru.P.Natarajan as Sole Arbitrator. Therefore, such contention of the petitioners that they were not put in proper notice about the appointment of Arbitrator cannot be accepted.

8. Coming to the next question whether the petitioners were provided sufficient and proper notice in the arbitration proceedings enabling them to present their case before the Arbitrator is concerned, as stated earlier, the Arbitrator in his award had stated that after receiving the arbitration reference from the 1st respondent herein by way of claim petition on

24.08.2017 notice were sent to the respondents of the claim petition (petitioners herein) through registered post with AD for their appearance 23.09.2017 and the said notice to the 1st respondent was returned as refused and the 2nd respondent was served. The Arbitrator had stated that he held the service sufficient and set both respondents exparte in the arbitral proceedings. Though the Arbitrator has stated that he had sent notice to the respondents of the claim petition in the arbitration proceedings through RPAD which was refused by 1st respondent (1st petitioner herein) and received by the 2nd respondent (the 2nd petitioner herein) the arbitrator has not produced either the acknowledgment card or the returned postal cover as evidence to prove that the arbitration notice sent by him to the petitioners herein was received and refused as alleged by him. Even the postal receipts for sending the notice to the respondents of the claim petition (petitioners herein) about the hearing of the Arbitration proceedings is also not available in the back records submitted by the Arbitrator. On thorough perusal of the back records no such postal receipt or returned cover or acknowledgment card for receipt of the notice by the 2nd respondent are found in the records. The xerox copy of postal receipts for the letters addressed to several persons including the petitioners herein that too from one Selvaganesh alone is found in the back records which

reveals that the letters were booked on 15.03.2019 which is after the date of passing of Arbitration award and cannot be construed as a notice sent for Arbitration proceedings. The postal receipt dated 15.03.2019 is probably for sending the copy of award to the petitioners herein. Absolutely there is no document available to prove that a proper notice about the arbitration proceedings was served on the petitioners herein. When the petitioners are claiming that they were not put in proper notice about the arbitral proceedings enabling them to contest the case before the Arbitrator, it is the duty cast upon the sole Arbitrator and 1st respondent to prove that a proper notice was served on the petitioners herein. But both of them have failed to prove that proper notice was served on the petitioners herein by producing the relevant documents before this court. If the acknowledgment card for the receipt of notice by the 2nd petitioner and returned cover for refusal of the notice by the 1st respondent is available with the sole Arbitrator, there is no impediment for him to file those documents before this court or at least the 1st respondent could have taken steps to produce those documents by obtaining same from the custody of Arbitrator. But when no documents is filed to show that the petitioners were served proper notice in the arbitral proceedings, it is very clear that the principles of natural justice has been violated by setting the petitioners herein exparte without providing proper

opportunity to contest the case in the Arbitration proceedings. Therefore, I found that the reasons stated by the petitioners to set aside the arbitral award that they were not provided with proper opportunity to contest the case before the Arbitrator is clearly proved and it also squarely falls under Section 34 (2) (a) (iii) of the Act and on that ground the award is liable to be set aside. Considering all these facts and circumstances of this case, the award dated 16.02.2019 passed by Sole Arbitrator in Arbitration Petition No.432/2017 is liable to be set aside and this point is answered accordingly.

9. In the result, this Arbitration Original Petition is allowed without cost by setting aside the Arbitration Award passed by the Sole Arbitrator/ 2nd respondent in Arbitration Petition No.432/2017 dated 16.02.2019.

Dictated to the Stenographer, directly typed by her in computer, taken printout, corrected, and pronounced by me in open court, this the 14th day of July, 2026.

PRINCIPAL DISTRICT JUDGE
MADURAI.

Witness and documents on bothsides: NIL.

PRINCIPAL DISTRICT JUDGE
MADURAI.