

IN THE COURT OF ADDITIONAL SESSIONS JUDGE  
AIZAWL JUDICIAL DISTRICT, AIZAWL, MIZORAM.

Present : Shri Vanlalenmawia, MJS  
Additional Sessions Judge,  
Aizawl Judicial District, Aizawl.

Misc. Judicial Case (Arbitration) No. 289/2015  
A/o Arbitration Proceeding No. 380/2010

1. Shri Zosangliana S/o V.L. Buka  
R/o Sihphir, Aizawl District, Mizoram

2. Smt. Vanhmingliani  
R/o Chaltlang, Aizawl, Mizoram : Petitioners

Versus

M/s Indusind Bank Ltd. : Opposite Party

**PRESENT**

For the Petitioners : Shri C. Lalfakzuala, Advocate

For the Opposite Party : Shri F. Lalengliana, Advocate

Date of Hearing : 20.5.2016

Date of Order : 30.5.2016

**ORDER**

1. This application under section 34 (2) (a) (iii) of the Arbitration and Conciliation Act, 1996 is filed by the petitioners with a prayer to set aside and quash the arbitral award dated 15.7.2010 passed by the Sole Arbitrator Sh. Ram Pravesh Singh in Arbitration Proceeding No. 380/2010. The respondent, by invoking the Loan Agreement containing Arbitration Clause dated \_\_\_\_\_ it had entered into with the petitioners, referred the claim for adjudication to the said Sole Arbitrator. The respondents claimed for relief of Rs. \_\_\_\_\_/- with interest amongst others. The Sole Arbitrator proceeded with the arbitral proceeding by holding that the notice of reference was served by the respondents to the petitioners. Though the petitioners did not participate in the proceedings, the Sole Arbitrator proceeded with the claim and passed the said award dated \_\_\_\_\_ ex-parte.

2. The petitioners contended that they were not given notice of the appointment of the Sole Arbitrator and that they were not aware of the arbitral proceedings. They have also contended that they could not present their case as they were not aware about the arbitral proceeding. It is further contended that they came to know about passing of the award only on \_\_\_\_\_ after an execution proceeding was initiated. On the other hand, the respondent submitted that all notices were sent to the petitioners by registered post with acknowledgement due but the latter failed to appear.

3. Para 23 of the Loan Agreement dated \_\_\_\_\_ provided that any dispute between the parties shall be referred to a Sole Arbitrator to be nominated by the lender. It is the duty of either of the party who intend to refer the dispute to the Sole Arbitrator to give notice of such intention to the other party. The Sole Arbitrator is also duty bound to give notice of the arbitral proceedings to the opposite party.

4. In the case at hand, the petitioners have asserted that they are neither aware of reference of the dispute to the Sole Arbitrator nor the proceedings before the arbitral tribunal. The respondents are unable to show that notices were duly served to the petitioners despite their claim that it was sent by registered post with AD card. The respondent rather enclosed a copy of an envelope addressed to the petitioners sent by the Sole Arbitrator which show that the addressee was not found and that the same was returned to the sender. Situated thus, I am satisfied to hold that the petitioners were not given proper notice of the appointment of the arbitrator. They were not aware about the arbitral proceedings and as a result they were unable to present their case.

5. In view of the above, the arbitral award dated 15.7.2010 passed by the Sole Arbitrator Sh. Ram Pravesh Singh is Arbitration Proceeding No. 380/2010 is hereby set aside and quashed.

6. Announced in the open court this the 30<sup>th</sup> day of May, 2016.

(VANLALENMAWIA)  
Addl. District Judge,  
Aizawl Judicial District,  
Aizawl, Mizoram.

**Memo No. \_\_\_\_\_/ADJ(A)/2016 : Dated Aizawl, the 30<sup>th</sup> May, 2016**

**Copy to: -**

1. Shri Zosangliana S/o V.L. Buka  
R/o Sihphir, Aizawl District, Mizoram
2. Smt. Vanhmingliani  
R/o Chaltlang, Aizawl, Mizoram.
3. M/s Indusind Bank Ltd. through Counsel Shri F. Lalengliana, Advocate.
4. District Judge, Aizawl Judicial District, Aizawl.
5. Registration Section.
6. Guard File.
7. Case Record.
8. Calendar Judgment.

through Counsel  
Shri C. Lalfakzuala, Advocate

P E S H K A R