



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 5TH DAY OF MARCH, 2026

BEFORE

THE HON'BLE MR. JUSTICE E.S.INDIRESH

CIVIL MISCELLANEOUS PETITION NO. 42 OF 2025

BETWEEN:

BENSON BUILDERS PRIVATE LIMITED
FORMERLY KNOWN AS BENSON INFRASTRUCTURE
(INDIA) PRIVATE LTD.

A COMPANY INCORPORATED UNDER THE
PROVISIONS OF THE COMPANIES ACT, 1956 AND
EXISTING UNDER THE PROVISIONS OF THE
COMPANIES ACT, 2013
HAVING ITS REGISTERED OFFICE AT NO.462,
'F' BLOCK, 19TH MAIN, 13TH CROSS,
SAHAKARANAGAR,
BENGALURU - 560 092,
REPRESENTED HEREIN BY ITS DIRECTOR
MR. SOLOMONRAJ BENNET,
SON OF LATE MR. PUTTARAJ,
AGED ABOUT 64 YEARS.

...PETITIONER

(BY SYED KASHIF ALI, ADVOCATE)

AND:

N.B. CONSTRUCTION COMPANY
A REGISTERED PARTNERSHIP FIRM
HAVING ITS OFFICE AT NO.93,
SAI COMPLEX, 4TH FLOOR,
1ST MAIN ROAD, I STAGE, 'A' SECTOR,
YELAHANKA NEW TOWN,
BENGALURU - 560 064.
REPRESENTED HEREIN BY ITS MANAGING PARTNER
MR. P.N. NAGABHUSHANA



FATHER'S NAME NOT KNOWN TO PETITIONER,
MAJOR IN AGE.

...RESPONDENT

(BY SRI G.B. ESWARAPPA, ADVOCATE)

THIS CIVIL MISCELLANEOUS PETITION IS FILED UNDER SECTION 11(5) OF THE ARBITRATION AND CONCILIATION ACT, 1996, PRAYING TO APPOINT SRI.S.R. SOMASHEKHARA, DISTRICT JUDGE (RETD),. WHO IS ON THE PANEL OF THE ARBITRATION CENTRE KARNATAKA (DOMESTIC AND INTERNATIONAL), KHANIJA BHAVAN NO.49 3RD FLOOR, EAST WING, RACE COURSE ROAD, BENGALURU - 560 001 AS THE SOLE ARBITRATOR TO ENTER UPON REFERENCE AND ADJUDICATE THE DISPUTES BETWEEN THE PARTIES AS PER THE ARBITRATION CLAUSE-12 IN THE SUB-CONTRACT AGREEMENT DATED 06.04.2016 AND ETC.

THIS PETITION COMING ON FOR ADMISSION, THIS DAY,
ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE E.S.INDIRESH

ORAL ORDER

In this petition, the petitioner has sought for appointment of an Arbitrator under Section 11(5) of the Arbitration and Conciliation Act, 1996.

2. Heard the learned counsel appearing for the parties.



3. Sri. Syed Kashif Ali, learned counsel appearing for the petitioner invited the attention of the Court to Clause-12 of the Sub-Contract Agreement dated 06.04.2016 (Annexure-A) and also the notice issued by the petitioner at Annexure-D dated 23.09.2024 and has invited the attention of the Court to the Demand Notice dated 15.09.2023 (Annexure-B) as well as sought for appointment of the Arbitrator as per the notice dated 23.09.2024 (Annexure-D) and submitted that there is a necessity for resolution of the dispute by the Arbitrator and accordingly, sought for appointment of the Arbitrator concerned.

4. Per contra, Sri. G.B. Eswarappa, learned counsel appearing for the respondent submitted that the appointment of the Arbitrator is not necessitated under the circumstances of the case, as it is premature and also submitted that the Sub-Contract Agreement dated



06.04.2016 (Annexure-A) is invalid and it is not enforceable in law and therefore the appointment of the Arbitrator does not arise in this case. It is also argued by the learned counsel appearing for the respondent by inviting the attention of the Court to the proceedings before the competent Tribunal and so, also, paragraph 5.3 to the statement of objection and accordingly submitted that the petition deserves to be dismissed.

5. In this regard, the learned counsel refers to the judgment of the Hon'ble Supreme Court in the case of ***NTPC LTD. vs. M/S SPML INFRA LTD.*** passed in ***CIVIL APPEAL NO.4778/2022*** disposed of on 10.04.2023 and argued that, the question raised in the present petition is not arbitrable in nature and therefore, sought for dismissal of the petition.

6. In the light of the submissions made by the learned counsel appearing for the parties and on careful consideration of the Sub-Contract Agreement dated



06.04.2016 (Annexure-A), wherein clause-12 provides for the appointment of the Arbitrator in the event of the dispute between the parties, though the learned counsel appearing for the respondent submitted that it is premature as well as the document at Annexure-A is invalid and not enforceable in nature and also places reliance on the judgment of the Hon'ble Supreme Court in the case of **NTPC LTD.** (supra), however, on careful consideration of the paragraph-27 of the said judgment wherein it is stated that, the referral Courts must not undertake a full review of the contested facts and therefore, I am of the view that the standard of scrutiny insofar as the validation of the document is only by the arbitral Tribunal. Further, the judgment referred to by the learned counsel appearing for the respondent will not support his contention. However, on the other hand, it will support the Court for referring the matter for appointment of the Arbitrator in the proceedings. In that view of the aforesaid, by looking into the pleadings on record, I am of



the opinion that, the appointment of the Arbitrator is necessitated in the circumstances of the case.

7. Therefore, Sri. Kukkaje Ramakrishna Bhat, retired District Judge is appointed to act as a Sole Arbitrator in the Arbitration and Conciliation Centre, Bengaluru as per the extant Rules.

8. All claims and contentions of the parties are kept open to be decided by the Arbitral Tribunal.

9. A copy of this order be sent forthwith to the Arbitration and Conciliation Centre, Khanija Bhavan, Bengaluru for proceeding further in the matter.

10. Registry is directed to return the original documents if any, produced by the parties, after obtaining photostat copy of the same for the file.

11. Since the parties are represented through their learned counsels, parties are directed to appear before the Arbitration and Conciliation Centre, Bengaluru on



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06.04.2026 at 11.00 a.m. to enable the learned Arbitrator
to take further action in the matter.

Accordingly, Civil Miscellaneous Petition is ***disposed***
of.

**Sd/-
(E.S.INDIRESH)
JUDGE**

KLV
List No.: 1 SI No.: 33