



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 12TH DAY OF MARCH, 2026

BEFORE

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

CIVIL MISC. PETITION No. 330 OF 2025

BETWEEN:

D.E.C. INFRASTRUCTURE AND
PROJECTS (INDIA) PRIVATE LTD.
A COMPANY REGISTERED UNDER
THE COMPANIES ACT, 2013
HAVING ITS REGISTERED
ADDRESS AT: No. 2-1-434/1
STREET No.4, NALLAKUNTA
HYDERABAD -500 044.
TELANGANA
REP BY M.P. JOSE
CONSULTANT OF COMPANY

...PETITIONER

(BY SRI. AJAY J. NANDALIKE, ADVOCATE FOR
SRI.YASHODHAR HEGDE, ADVOCATE)

AND:

THE UNION OF INDIA
THROUGH
THE EXECUTIVE ENGINEER
BENGALURU CENTRAL DIVISION- I
CPWD, 3RD FLOOR, 'A' WING
KENDRIYA SADAN, KORAMANGALA.
BANGALORE, PIN : 560 034.

...RESPONDENT

(BY SRI. KUMAR M. N, CGSPC)

THIS CMP IS FILED UNDER SECTION 11(6) OF
ARBITRATION AND CONCILIATION ACT 1996, PRAYING TO



APPOINT A SOLE ARBITRATOR FOR ADJUDICATION OF DISPUTES ARISING BETWEEN THE PETITIONER AND THE RESPONDENTS HEREIN, OUT OF CONTRACT AGREEMENT BEARING No.65/CE/BCD-I/2019-20 AT ANNEXURE-B, FOR EXECUTION OF THE SUBJECT WORK IN ACCORDANCE WITH CLAUSE 25 OF THE GENERAL CONDITION OF CONTRACT 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

1. Heard learned counsel appearing for the parties.

2. In this petition petitioner has sought for appointment of an Arbitrator for adjudication of dispute, as per Clause 25 of the Contract Agreement produced at Annexure B for execution of the subject work.

3. Sri. M.N. Kumar, learned counsel appearing for the respondent raised a preliminary objection that, arbitral award has been made as per Clause 25 of the Contract Agreement produced at Annexure B and therefore, second arbitrator, on the very same question, cannot be appointed as it amounts to res judicata and accordingly



submits that it was open for the petitioner herein to raise all the disputes concerning the Contract Agreement before the first Arbitral Tribunal itself and therefore, sought for dismissal of the petition. The learned counsel placed reliance on the order passed by this Court in **CMP No. 433/2024** decided on **15.04.2025** in the case of **Maya Tradelinks Limited Vs. Shri Kirti Kumar Kabra and others** and submits that, the claim made by the petitioner herein is squarely covered by finding recorded by this Court and sought for dismissal of the petition.

4. In this regard, learned counsel appearing for the petitioner refers to the letter dated 17.01.2024 (Annexure R-2) wherein, the petitioner herein was not able to raise the said dispute in the first Arbitral Tribunal as the final bill remained unpaid and accordingly, it is submitted that the cause of action for making claim as to the appointment of second Arbitrator has nothing to do with the conclusion of the proceedings by the learned Arbitrator as per Annexure R-11 of the statement of



objections and in this regard, he refers to the judgment of the Supreme Court in the case of ***Dolphin Drilling Ltd., Vs. Oil and Natural Gas Corporation Ltd.***, reported in ***(2010) 3 SCC 267*** and in the case of ***Indian Oil Corporation Ltd., Vs. SPS Engineering Ltd.***, reported in ***(2011) 3 SCC 507*** and contended that, if these questions are to be gone into by the learned Arbitrator as to the adjudication on the subsequent events pertaining to the first arbitral award and therefore sought for appointment of the Arbitrator.

5. In the light of the submissions made by the learned counsel appearing for the parties, it is not in dispute that clause 25 of Annexure-B provides for settlement of dispute by way of appointment of an Arbitrator. It is also not in dispute that on the earlier occasion an arbitral award has been passed pertaining to Clause 25 of Annexure-B insofar as the other claims and it had nothing to do with the final bill yet to be passed by the respondent herein. The same is forthcoming from the



letter dated 17.01.2024 (Annexure R-2), wherein it is noted that the issue resolved in the said arbitration is as to the current date of bill. However, the final bill remains unpaid, which is forthcoming therein.

6. The Hon'ble Supreme Court in the case of ***Indian Oil Corporation Ltd.*** (supra) has observed as under :

"16. The question whether a claim is barred by res judicata, does not arise for consideration in a proceeding under Section 11 of the Act. Such an issue will have to be examined by the Arbitral Tribunal. A decision on res judicata requires consideration of the pleadings as also the claims/issues/points and the award in the first round of arbitration, in juxtaposition with the pleadings and the issues/points/claims in the second arbitration. The limited scope of Section 11 of the Act does not permit such examination of the maintainability or tenability of a claim either on facts or in law. It is for the Arbitral Tribunal to examine and decide whether the claim was barred by res judicata. There can be no threshold consideration and rejection of a claim on the ground of res judicata, while considering an application under Section 11 of the Act."



7. Following declaration of law made by the Hon'ble Supreme Court, the contention of the petitioner herein is that in the earlier arbitral proceedings the final bill remains unpaid as on the date of passing of the award and therefore these aspects have to be considered by the Arbitrator to be appointed in the present petition. In that view of the matter, considering the nature of claim made by the parties, and also in order to expedite the hearing as to the resolution of dispute between the parties, I am of the view that the earlier arbitrator, Sri. Anil Kumar Verma, has to be appointed as the Arbitrator for resolution of the dispute between the parties.

8. In order to avoid delay in the matter, the parties are directed to appear before the learned Arbitrator on 25.03.2026 at 11.00 am. On appearance of the parties, learned Arbitrator is requested to resolve the dispute at the earliest.



9. The Registry is directed to communicate this order to the Arbitration and Conciliation Centre, Bengaluru and also to Sri. Anil Kumar Verma, Arbitrator, forthwith.

10. All contentions of both the parties are kept open.

11. Accordingly, this Civil Miscellaneous Petition stands disposed of.

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

LRS
List No.: 1 Sl No.: 32
Ct.sm