

IN THE HIGH COURT OF KERALAAT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

FRIDAY, THE 21ST DAY OF AUGUST 2015/30TH SRAVANA, 1937H

OP(C).No. 2079 of 2015 (O)

OP(Arb) NO.130/2014 OF I ADDITIONAL DISTRICT COURT, KOLLAM

PETITIONER(S):

GMM PFAUDLER (P) LTD
VITHAL UDYOG NAGAR
KARAMSAD, 388 325, GUJARAT
REP. BY ITS AUTHORISED REPRESENTATIVE
UDAYAN SHAH

BY ADVS.SRI.N.N.SUGUNAPALAN (SR.)
SRI.S.SUJIN

RESPONDENT(S):

THE KERALA MINERALS & METALS LTD
SANKARA MANGALAM, CHAVARA
KOLLAM 691 583
REP. BY ITS COMPANY SECRETARY

R BY SMT.LATHAKRISHNAN

THIS OP (CIVIL) HAVING COME UP FOR ADMISSION ON 21-08-2015, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

OPC.2079/2015

APPENDIX

PETITIONER'S EXHIBITS:

- P1 TRUE COPY OF THE IA.669/15 IN OP(ARB) NO.205/2012
- P2 TRUE COPY OF THE IA.1594/2015 IN OP(ARB).130/2014
- P3 TRUE COPY OF THE IA.1596/15 IN OP(ARB).130/14.

// True Copy //

PA to Judge

B. KEMAL PASHA, J.

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O.P.(C) No.2079 of 2015
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Dated this the 21st day of August, 2015

J U D G M E N T

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An original petition under Section 34 of the Arbitration and Conciliation Act was filed before the court below by challenging an award. The court below has ordered the production of a bank guarantee by way of security. The bank guarantee was produced. Subsequently, it so happened that the OP was dismissed for default. For quiet some time, the application for restoration was not filed. Subsequently, Ext.P1 application for getting the OP restored, has been filed.

2. In the meantime, the respondent has attempted to invoke the bank guarantee. So far, the bank guarantee has not been enforced. The precise request from the part of the petitioner is that till the disposal of Ext.P1, the respondent may be restrained from invoking the bank

guarantee.

3. On hearing the learned Senior Counsel for the petitioner and learned counsel for the respondent, this Court is of the view that the respondent shall not be permitted to invoke the bank guarantee, till the disposal of Ext.P1.

With the said observations, this O.P.(Civil) is disposed of.

Sd/-
(B.KEMAL PASHA, JUDGE)

aks/21/08

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PA to Judge