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In the High Court of Judicature at Madras

Dated : 28.04.2015

Coram :

The Hon'ble Mr.Sanjay Kishan Kaul, Chief Justice

O.P.No.71 of 2014

M/s.Neyveli Lignite Corporation Limited,
'Neyveli House', 135, Periyar E.V.R. High Road,
Kilpauk, Chennai, Rep. by its Company Secretary.

.. Petitioner

-vs-

Shree Laxmi Iron & Steel Works Pvt. Limited,
No.206, Acharya Jagadish Chandra Bose Road,
Kolkatta.

..Respondent

Petition filed under Section 11 (6) of the Arbitration and Conciliation Act, 1996, to appoint an arbitrator to fill the vacancy owing to failure of the respondent to appoint an Arbitrator as required under the procedure stipulated in the Purchase Order No.OA8098/TC/04089W/MM-11(3)/20/11 dt.20.05.2004.

For Petitioner : Mr.N.Nithianandam

For Respondent : Mr.V.Anand

* * * * *

O R D E R

The dispute arises of a Purchase Order dated 20.05.2004 placed by the petitioner on the respondent, which undisputedly contains an arbitration clause. This Purchase Order has given rise to disputes, as, according to the petitioner, the respondent did not supply the material as per the Purchase Order, while the stand of the



respondent is that the Purchase Order was placed beyond the period fixed in the tender.

2.It, however, appears that the parties entered into the litigation in a civil suit instituted by the respondent, in which the petitioner filed an application under Section 8 of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as 'the said Act'). The application is stated to have been ordered. There was certain other proceedings, but the net result was that the Subordinate Court sought to exercise jurisdiction under Section 11 of the said Act, a jurisdiction not available and consequently that order was stayed. In view of the aforesaid position, learned counsels for parties state that the present petition can be ordered, but leaving all defences of the respondent open including the plea of time bar and the arbitrability of the disputes, in view of the suit filed by the respondent.

3.It is proposed that Mr.Justice K.Mohanram, a retired Judge of this Court, be appointed as the Sole Arbitrator, to enter upon reference and adjudicate the disputes inter se the parties.

4.In view thereof, as proposed and agreed, I appoint **Mr.Justice K.Mohanram**, a retired Judge of this Court, as the Sole Arbitrator, to enter upon reference and adjudicate the disputes inter se the parties. As agreed by the



learned counsel for parties, the arbitration proceedings will be conducted under the aegis of the Madras High Court Arbitration Centre and the parties will be governed by the Rules of the Centre.

5. The original petition is, accordingly, allowed, leaving the parties to bear their own costs.

Sd/. (S.K.K., CJ.)
28.04.2015

//Certified to be a true copy//

Dated this the day of 2015.

R.s/06.07.2015

COURT OFFICER

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