



In the High Court of Judicature at Madras

Dated: 16.03.2015

Coram:

The Honourable Mr. SANJAY KISHAN KAUL, Chief Justice
and

The Honourable Mr. Justice M.M. SUNDRESH

O.S.A. No.35 of 2014
and M.P. No.1 of 2014

Chennai Metro Rail Limited
rep. by its Chief General Manager
(Construction) Thiru.V.Somasundram
Harini Towers, No.7, Conran Smith Road
Gopalapuram, Chennai 600 086. .. Appellant / Petitioner

vs.

1. M/s. Lanco Infratech Limited
rep. by its General Manager
Mr. D. Ramesh
No.25, G.N. Chetty Road
4th Floor, T. Nagar, Chennai-17.
2. K.D. Arcot
3. A.P. Radhakrishnan
4. G. Sivakumar
5. The Registrar
Indian Council of Arbitration
Federation House
Tansen Marg
New Delhi 110 001. .. Respondents/ Respondents

Prayer: Original Side Appeal filed under Order XXXVI, Rule 1 of Original Side Rules read with Clause 15 of the Letters Patent, to set aside the Order and Decree dated 10.01.2014 passed by the learned Single Judge, in O.P. No.845 of 2013 on the file of this Court.

For Appellant : Mr. R. Thiagarajan, Sr. Counsel
for Mr. Jayesh B. Dolia

For Respondents : Mr. V.T. Gopalan, Sr. Counsel
for Mr. K. Ravindranath for R1



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6. In order to resolve the issue, the first respondent without prejudice to the rights and contentions, addressed a communication dated 27.01.2015 to the appellant and what was proposed was that the Arbitrator nominated by the first respondent may be accepted by the appellant and the Arbitrator appointed by the Council may take the position of the Presiding Arbitrator.

7. Learned counsel for the appellant submits that the aforesaid can be a resolution of the issue in question subject to one caveat i.e. the Arbitrator appointed by the Council must have the qualification as provided in Clause 20.6.6. of the agreement. Whether he does or does not possess the qualification is not known.

8. It is, thus, agreed that the Arbitral Tribunal will consist of the nominee Arbitrator of the first respondent, namely, Shri.A.Jagannathan and Shri.G.Sivakumar, as the nominee Arbitrator of the appellant. The Presiding Arbitrator would be nominated by the Indian Council of Arbitration, which may be either Shri.K.D.Arcot or Shri.A.P.Radhakrishnan or any other person, who meets with the qualification, as laid down in Clause 20.6.6 of the Agreement.

9. Copy of the order be sent to the Indian Council of Arbitration to make the said nomination within fifteen days of the receipt of the order.

10. The appeal accordingly stands disposed of. No costs. Consequently, M.P.No.1 of 2014 is closed.

Sd/-
Asst.Registrar (CO)

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Sub Asst. Registrar

Note:-

ATR

To

1. The Registrar
Indian Counsel of Arbitration
Federation House
Tansen Marg
New Delhi 110 001



2. The Sub Assistant Registrar
Original Side
High Court, Madras

1 cc to Mr.K. Ravindranath, Advocate, sr. 14690

O.S.A. No.35 of 2014

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