



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.74 of 2014

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.

.. Appellant

vs.

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.

.. Respondent

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 09.12.2013 passed by the learned Single Judge, in Application No.5861 of 2013 in Application No.3791 of 2013 on the file of this Court.

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

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

J U D G M E N T

(Made by The Hon'ble The Chief Justice)

It is not in issue that the machinery manufactured by the respondent is project specific. There is a dispute about the valuation of the machinery, but not by a major amount. It was thus the say of the appellant/Contractor that the respondent should at



least pay the amount for the machinery, as assessed by them and that they were willing to accept the amount, as made by the respondent.

2. The learned single Judge, however, opined vide the impugned order dated 09.12.2013 that this issue would be examined in the arbitration proceedings.

3. The fact remains that the machinery is being utilised by the respondent, but without paying for the machinery. This is stated to be as per the terms of the Contract inter se the parties. The question, thus, arises whether by an interim arrangement, the respondent should be put to certain terms or not, i.e. whether he should be made to pay the amount as determined by the respondent for the machinery or some other term be made for use of the machinery.

4. It is agreed that this issue may be examined by the Arbitral Tribunal as an interim measure uninfluenced by the impugned order.

5. The appeal accordingly stands disposed of. No costs.

Sd/-

Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

ATR

To

1. The 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.

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

1 cc to M/s. Jayesh B. Dolia, Advocate, Sr. 14608
1 cc to Mr.K. Ravindranath, Advocate, sr. 14688

O.S.A. No.74 of 2014

SAI (CO)
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