

In the High Court of Judicature at Madras

Dated : 25.09.2015

Coram :

The Hon'ble Mr.Justice T.S.SIVAGNANAM

O.P.No.472 of 2013

M/s. Elseetee Agro
Machines India Pvt. Ltd. ... Petitioner

-vs-

Tamil Nadu Agricultural University
rep. by Dean, Agricultural Engineering College
and Research Institute,
Tamil Nadu Agricultural University,
Coimbatore 641 003. ... Respondent

Petition filed under Section 11 (6) of the
Arbitration and Conciliation Act, 1996, to appoint a Sole
Arbitrator to refer the dispute between the
petitioner and the respondent.

For Petitioner : Mr.V.V.Sathya for
M/s. T.K.Dharmarajan

For Respondent : Mr.Abdul Saleem

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ORDER

This petition has been filed under Section 11(6) of
the Arbitration and Conciliation Act, 1996. Petitioner
seeks for a direction to refer the dispute between the
parties to Aribitral Tribunal by appointing an Arbitrator
for the reasons stated in the petition.

2. The respondent is the Tamil nadu Agricultural University, who has been supplied certain agricultural equipments, harvesting sugar cane equipments and other related equipments by the petitioner and the respondent University being not satisfied with the services of the petitioner, has filed a petition before the National Consumer Dispute Redressal Commission, New Delhi, claiming a sum of Rs.6,00,00,000/- towards deficiency in service. In the said petition, the petitioner herein filed an application under Section 8 of the Arbitration and Conciliation Act, stating that there is a binding arbitration agreement and the parties have to be referred to adjudicate the dispute before the arbitrator. The Nation Consumer Dispute Redressal Commission vide its order dated 30.04.2013, while foreclosing the right of the petitioner to file a written version also rejected the petition filed under Section 8 of the Act. As against which, the petitioner has filed Appeal before the Honourable Supreme Court in C.A.No.10805 of 2013, which is now pending and interim stay of all further proceedings before the National Consumer Disputes Redressal Commission has been granted by the Honourable Supreme Court. In the given situation, this Court vide order dated 18.09.2015, framed the question as to whether the pendency of the Civil Appeal before the Honourable Supreme Court arising out of the order passed by the National Consumer Redressal Commission would be a bar for the matter to be adjudicated before the Arbitrator and

accordingly, the matter was adjourned and posted today for further hearing.

3. Today, learned counsel on either side appeared before this Court and they have consented before this Court to appoint an arbitrator in the matter to settle the dispute between the petitioner and the respondent. The protection sought for by the respondent is that their right should not be foreclosed and it should be left open and the right prosecute the claim before the commission should also be preserved in the event of Supreme Court vacating the interim order and disposing the appeal filed by the petitioner.

4. Learned counsel for the petitioner on instructions is fully agreeable to all such protection sought for by the respondent.

5. In the light of the agreement between the parties, this application is allowed. I appoint,

The Hon'ble Mr. Justice R. Balasubramaniam (Retd.)

No.5, Tiger Varadachari First Street,
Kalashetra Colony, Besant Nagar,
Chennai - 600 090.

as the Sole Arbitrator to enter upon the reference and
<https://hcservices.ecourts.gov.in/hcservices/>

after issuing notice to the parties and upon hearing them, pass an award as expeditiously as possible. The

learned Arbitrator is at liberty to fix the remuneration and other incidental expenses, which shall be borne by the parties equally. In the event of respondents not entering appearance, the same may be borne by the petitioner at the initial stage to form part of the main cause.

The Original Petition is accordingly allowed, leaving the parties to bear their own costs.

sd/.T.S.S.J

25.09.2015

//Certified to be a true copy//

Dated this the day of 2015.

R.s/08.10.2015

COURT OFFICER

From 25.09.2008 the Registry is issuing certified copies of the Order/Judgment Decree in this format.

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