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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.09.2015

Coram

THE HON'BLE Mr.JUSTICE T.S.SIVAGNANAM

O.P.Nos.63 & 99 of 2013

- 1.The Senior Branch manager
The Oriental Insurance Co. Ltd.,
59, Raja Street, Pudupalayam
Gobichettipalayam 638 496.
- 2.The Senior Divisional Manager
The Oriental Insurance Co. Ltd.,
Parimalam Complex, II Floor
11, E.V.N. Road, Erode 638 001.
- 3.The Chief Regional Manager
The Oriental Insurance Co. Ltd.,
2nd Floor, May Flower Building
No.72, Balasundaram Road
A.T.T.Cololy, Coimbatore 641 018.
... Petitioners in both O.Ps.

Vs

- 1.M/s Gangotri Textiles Ltd.,
New No.35, Robertson Road
R.S.Puram, Coimbatore 641 002.
- 2.Sri K.Balaji
District Judge, Retd.
#18, Easwara Nagar
Vadamadurai, Coimbatore 17.
... Respondents in both O.Ps.

Common Prayer :-Petitions filed under Section 11(6) of the Arbitration and Conciliation Act, 1996, to appoint an Arbitrator and refer all the disputes arising between the parties to the contract of insurance and to direct the



first respondent to pay the cost of these proceedings to the petitioners.

For petitioners .. Mr.N.Venkataraman
for M/s Nageswaran & Narichania

For Respondents .. Mr.R.Subramanian -R1
Mr.S.S.Raghavan

C O M M O N O R D E R

The petitioner / Oriental Insurance Company Ltd., are represented by its Officers and these Petitions have been filed under section 11(6) of the Arbitration and Conciliation Act, 1996, for appointment of an Arbitrator to refer all disputes arising between the parties to the contract of insurance, in respect of two Insurance Policies.

2.Heard Mr.N.Venkataraman, learned counsels for the petitioners and Mr.R.Subramanian, learned Senior counsel appearing for the first respondent.

3.The Hon'ble Acting Chief Justice (as he then was), by an order dated 26.04.2013 in A.No.1295 of 2013 in O.P.No.63 of 2013, had granted stay of further proceedings, since by then an Arbitrator had entered appearance, on a request made by the respondent/claimant.



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In the light of the interim order granted, the Arbitrator did not proceed further in the matter. The matter stands adjourned from time to time and today (18.09.2015) when the matter is listed for hearing, the learned counsel for the petitioner / Insurance Company submitted that in respect of both the Policies, the respondent/claimant has executed the discharge vouchers for Rs.30,12,860/- in respect of Policy No.454302/48/21010/557 and Rs.18,38,913 in respect of Policy No. 454302/48/21010/558.

4.The learned counsel appearing for the petitioner Insurance Company submitted that during the pendency of these proceedings, the Bank which has lent money to the respondent Company had initiated action under the provisions of the SARFAESI Act and it appears that there is dual claim in respect of the amount which has been agreed to be settled by the petitioner Insurance Company, one claim made by the respondent and the other claim by their Banker. Further, the learned counsel submits that till date the Insurance Company is yet to release payment in the light of the claims made by the respondent /claimant as well as their Banker.

5.In my view, this issue does not have any bearing on the scope of these Petitions as these Petitions have been filed by the Petitioner/ Insurance Company, seeking for



appointment of an Arbitrator and now that discharge vouchers have been executed by the respondent, nothing remains to be decided in these Petitions. Further, it is pointed out that by the learned counsel for the petitioner/Insurance Company that the respondent/claimant is yet to handover the original signed discharge Vouchers, though copies of the same are in possession of the petitioner/Insurance Company. This issue also will not have any bearing on these Petitions, as these Petitions have been filed for appointment of an Arbitrator. As long as the original signed discharge vouchers are not returned to the petitioner/Insurance Company, the question of settling the claim would not arise.

6. In the light of the above and taking note of the subsequent developments, these Original Petitions are closed, as no further orders are required. No costs.

sd/.T.S.S.J

18.09.2015

//Certified to be a true copy//

Dated this the day of 2015.

R.s/06.11.2015

COURT OFFICER

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