

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.04.2016

CORAM

THE HON'BLE MR.SANJAY KISHAN KAUL, CHIEF JUSTICE
and
THE HON'BLE MR. JUSTICE SATHYANARAYANAN

O.S.A.Nos.192, 193 & 194 of 2015
and
CMP.Nos.3591, 3594 & 3597 of 2016

O.S.A.Nos.192 & 194 of 2015

Chennai Metro Rail Limited,
rep. by its Chief General Manager (Construction),
No.11/6, Seethammal Road,
Alwarpet,
Chennai-600 018.

Presently at
CMRL Depot, Admin Building,
Poonamallee High Road,
Opposite to Daniel Thomas School,
Koyambedu,
Chennai-107.

.... Appellant

vs

1.M/s.Gammon-OJSC Mosmetrostroy JV,
rep. by its Authorised Signatory J.L.Ashar,
Gammon House,
Veer Savarkar Marg, Prabhadevi,
Mumbai-400 025.

2.M/s.ICICI Bank Limited,
ICICI Centre,
No.163, H.T.Parekh Marg,
Backbay Reclamation,
Church Gate,
Mumbai-400 020.

... Respondents

O.S.A.No.193 of 2015

Chennai Metro Rail Limited,
rep. by its Chief General Manager (Construction),
No.11/6, Seethammal Road,
Alwarpet,
Chennai-600 018.

Presently at
CMRL Depot, Admin Building,
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... Appellant

vs

1.M/s.Gammon-OJSC Mosmetrostroy JV,
rep. by its Authorised Signatory J.L.Ashar,
Gammon House,
Veer Savarkar Marg,
Prabhadevi,
Mumbai-400 025.

2.M/s.Bank of Baroda,
Corporate Financial Branch,
1st Floor, No.3, Waichand Hirachand Marg,
Ballad Pier,
Mumbai-400 001.

... Respondents

Appeals filed under Clause 15 of the Letters Patent read with Order XXXVI, Rule 9 of Original Side Rules against the order made in O.A.Nos.731, 732 & 734 of 2015, dated 08.09.2015 on the file of this Court.

For Appellant .. Mr.AL.Somayaji
Senior Counsel for
Mr.Abdul Saleem

Mr.L.Nageshwara Rao
Senior Counsel for
Mr.Jayesh B.Dolia

For Respondent .. Mr.P.S.Raman
No.1 Senior Counsel for
Mr.P.J.Rishikesh &
Mr.J.Sivanandaraj

For Respondent .. M/s.Shivakumar & Suresh
No.2

COMMON JUDGMENT

(Judgment of the Court was delivered by The Hon'ble Chief Justice)

We have heard the learned counsel for parties. With the positive approach taken by all the Senior Counsels, the controversy has been resolved and it is agreed that all the parties would go in for arbitration to resolve their disputes.

2. The next question is the panel of Arbitrators. Prof. Dr.Kirti Dave, Chartered Engineer, Techno-Legal Consultant, 5/B, Ghar Sagarika Society, Juhu Tara Road, Juhu, Mumbai-400 049 was nominated by M/s.Gammon-OJSC Mosmetrostroy JV (Respondent No.1). In Court, today, the opposite side has nominated Dr.P.V.Amarnadha Prasad, Techno-Legal Expert, Arbitration Consultant and Advocate, 385, Avenue-4, Banjara Hills, Hyderabad-500 034 as their nominee Arbitrator. Parties also agree, as suggested by this Court, that Mr.Justice A.P.Shah, retired Chief Justice of the Delhi High Court and the Ex-Chairman of the Law Commission may be the Presiding Arbitrator, as the learned Senior Counsels state that there are legal issues involved in these matters, apart from the technical issues. This would facilitate a panel of Arbitrators of two technical persons and the Presiding Arbitrator, being a retired Chief Justice of Delhi High Court and the Ex-Chairman of the Law Commission.

3. The aforesaid resolves the second issue also.

4. We appreciate the stand taken by both the learned Senior Counsels to resolve the whole controversy and save us of the hearing of the appeals against the impugned order of 100 pages.

5. The bank guarantee would be kept alive during the period of arbitration.

6. The appeals, accordingly, stand disposed of. No costs. Consequently, C.M.P.Nos.3591, 3594 and 3597 of 2016 are closed.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

Copy to:

1. The Sub Assistant Registrar
Original Side, Madras High Court,
Chennai.
2. Prof.Dr.Kirtidave,
Chartered Engineer,
Techno-Legal consultant,
5/B, Ghar Sagarika Society,
Juhu Tara Road,
Juhu,
Mumbai-400 049.
3. Dr.P.V.Amarnadha Prasad,
Techno-Legal Expert,
Arbitration Consultant
and Advocate,
385, Avenue -4, Banjara Hills,
Hyderabad-500 034.
4. The Hon'ble Mr.Justice A.P.Shah,
Retired Chief Justice of the Delhi High Court
and the Ex. Chairman of the Law Commission,
F-6A,Hauz Khas,
New Delhi 110 016.

+1cc to Mr.J.Sivanandaraaj, Advocate sr.27268
+1cc to Mr.Shivakumar & Suresh, Advocate sr.26536
+1cc to Mr.Jayesh B.Dolia, Advocate sr.26467
+2cc to Mr.P.J.Rishikesh, Advocate sr.26886

सत्यमेव जयते

O.S.A.Nos.192 to 194 of 2015

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srg(04/05/2016)

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