

In the High Court of Judicature at Madras

Dated : 12.02.2016

Coram :

The Hon'ble Mr.Sanjay Kishan Kaul, Chief Justice

O.P.No.965 of 2015

M/s.Terex India Private Limited,
rep. by Srikanth Ekambaram,
Executive Director-Finance,
Registered Office: Suites # 1709-1712,
17th Floor, Narain Manzil,
Barakhamba Road,
New Delhi-110 001.
Site office: E-18, Phase II, Expansion II,
Sipcot Industry Complex,
Hosur-635 109,
Tamil Nadu. .. Petitioner

-vs-

1.The State Industries Promotion Corporation
of Tamil Nadu Limited,
rep. by its Managing Director,
19-A, Rukmani Lakshmipathy Road,
Post Box No.7223,
Egmore, Chennai-600 008.

2.The Government of Tamil Nadu,
rep. by the Secretary,
Department of Industries,
Fort St. George,
Chennai-600 009,
Tamil Nadu. .. Respondents

Petition filed under Section 11 (5) of the

Arbitration and Conciliation Act, 1996, to appoint a sole
arbitrator in terms of the Lease Deed dated 17.10.2007
entered into between the petitioner and the first
respondent, for the purpose of adjudicating upon the

dispute that has arisen between the petitioner and the
first respondent under the Lease Deed dated 17.10.2007.

For Petitioner : Mr.Vinod Kumar

For Respondents : Mr.STS.Moorthy
Government Advocate

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O R D E R

The learned Government Pleader has entered appearance for the respondents and submits that as per Clause 35 of the Lease Deed dated 17.10.2007, the disputes are to be resolved through the Arbitrator to be appointed by the Government of Tamil Nadu. But the petitioner vide letter dated 18.09.2015, sought reference of the disputes to arbitration by addressing a communication to the Managing Director of the first respondent. No doubt, a copy of this letter has been marked to the Secretary, Department of Industries, Government of Tamil Nadu, with paragraph 4 of the letter requiring the Secretary to appoint an Arbitrator.

2. It is trite to say that when there is a designated authority, the communication requiring appointment of an Arbitrator should be addressed to the said designated authority, as there is every chance of the copy of the letter being marked escaping its attention.

In fact, a separate letter ought to have been addressed to the designated authority.

3. Be that as it may, the aforesaid issue can be sorted out as the learned Government Pleader appearing for the State Government submits that the Arbitrator will be appointed in terms of the arbitration Clause within a period of fifteen days of the receipt of the order by the authority concerned, making it clear that since the appointment is now taking place, the provisions of the Amended Act would apply.

4. The aforesaid statement is taken on record and the Original Petition, accordingly, stands disposed of. No costs.

Sd/ (S.K.K., CJ.)
12.02.2016

//Certified to be a true copy//

Dated this the day of 2016

R.s/17.02.2016

COURT OFFICER

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