

In the High Court of Judicature at Madras

Dated : 25.11.2016

Coram :

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

O.P.No.748 of 2016

M/s.Srishti Commuunications,
rep. by its Proprietor S.Kumar,
1218/18 34th Cross, 28th Main,
4th T Block, Jaya Nagar,
Bangalore-41. ... Petitioner

-vs-

- 1.The General Manager,
Southern Railway,
Park Town, Chennai-3.
- 2.The Senior Divisional Commercial Manager,
Southern Railway, Divisional Office,
Commercial Branch,
Madurai.
- 3.S.M.V.Saravanan,
Sr. EDPM/MDU,
Sole Arbitrator,
Information Technology Centre,
Southern Railway,
Madurai-625 016. ... Respondents

Petition filed under Section 14, 15 and 11(6) of the Arbitration and Conciliation Act, 1996, to terminate the mandate of the present Arbitral Tribunal of the first respondent and appoint an independent arbitrator to arbitrate all the disputes and claims arising out of the agreement dated 11.6.2011.

For Petitioner : Mr.S.Vijayakumar

For Respondents : Mr.P.T.Ramkumar

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O R D E R

Heard the learned counsel for parties.

2. The learned counsel for the respondents has drawn the attention of this Court to the judgment in ***Jumbo Bags Limited, rep. by its Director G.S.Anil Kumar, S.K.Enclave, New No.4, Old No.47, I Floor, Nowroji Road, Chetpet, Chennai-31 v. New India Assurance Co. Ltd., rep. by Regional Manager, Claims Hub, Macmillan House, II Floor, B Block, 21, Pattulos Road, Chennai-2, 2016 (3) CTC 769***, where the very question of when the arbitration proceedings commence has been decided and in view thereof, the provision of the Amended Act would not be applicable in the facts of the present case.

3. It also transpires that the letter of the petitioner dated 23.7.2015 has been received by the respondent only on 03.08.2015 and thus appointment of an Arbitrator is within the period of 90 days as envisaged under Clause 47 (i) of the agreement dated 11.06.2011, which is the arbitration clause.

4. The learned counsel for the petitioner, faced with this position, states that it would be appropriate and just that the Chairman may atleast appoint another Arbitrator instead of the existing Arbitrator, a course of action to which the learned counsel for the respondents has no objection in the given facts of the case.

5. The General Manager of the Southern Railway will appoint another Arbitrator in the place of the existing Arbitrator on the basis of the same terms of reference.

6. Needful be done within four weeks from today.

7. The original petition, accordingly, stands disposed of. No costs.

Sd/. (S.K.K., CJ.)
25.11.2016

//Certified to be a true copy//

Dated this the day of 2017

R.s/18.01.2017

COURT OFFICER

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