

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.07.2016

CORAM:

THE HONOURABLE MR.JUSTICE **RAJIV SHAKDHER**

O.P.No.83 of 2016

Foxconn India Developer Private Limited
represented by its Authorised Signatory,
P.Murugan, S/o.P.C.Pachaiyappan
A11 and A12, SIPCOT Industrial Park,
Irungattukottai, Sriperumbudur,
Kancheepuram District - 602 105. ... Petitioner

Vs.

1. M/s.R.D.Associates,
Rep. By Proprietor, G.Diliban,
EXOTICA, 6th Floor,
No.24, Venkatanarayana Road,
T.Nagar, Chennai - 600 017.
2. Mr.Justice T.Somasundaram,
Judge, High Court of Madras (Retd.),
Sole Arbitrator,
No.1686, 15th Street, H-Block,
Anna Nagar, Chennai - 600 040. ... Respondents

Petition under Section 37(2)(b) of the Arbitration
and Conciliation Act, 1996, praying to set aside the
Arbitral Award dated 05.01.2016 made in I.A.No.01/2015 in
Arbitration Case No.01/2014 passed by the second
respondent herein.

* * *

For Petitioner : Mr.D.Lourthu Paul Belson

For Respondent-1: Mr.C.Jagadish

ORDER

1. This is, in effect, an appeal filed under Section 37(1)(b) of the Arbitration and Conciliation Act, 1996 (in short the "Act").

2. In this appeal, the petitioner, in effect, impugns the order dated 05.01.2016, passed by the learned Arbitrator in respect of the application preferred under Section 17 of the Act.

2.1. The petitioner, by virtue of the application, filed under Section 17 of the Act, sought appointment of Technically Qualified Engineer to re-evaluate the work, which was subject matter of the contracts in issue.

3. Out of the four contracts, two contracts are dated 18.09.2007, while the other two contracts are dated 10.12.2007.

4. This aspect is not disputed by the learned counsel for the petitioner.

5. The learned Arbitrator has stated in paragraph 11 of the impugned order that it is not disputed that the respondent/original claimant had handed over the superstructure along with the site pertaining to contract No.FIP3/07/Ext Sew/034, on 04.05.2009, and the construction pertaining to other contracts on 02.01.2009.

5.1. Learned Arbitrator has also concluded that

since more than six years have passed from the date of

taking over the possession of the property, no purpose would be served by appointing a Technically Qualified Engineer.

6. It is not disputed before me by the learned counsel for the parties that the matter is at the stage of trial, before the learned Arbitrator.

7. The record shows that the respondent/original claimant had triggered the arbitration process, by virtue of the notice dated 14.09.2009. Nearly seven years have passed since then. Parties are yet to conclude the arbitration process.

8. In these circumstances, no interference is called for with the impugned order. The impugned order is tenable. Any interference, at this stage, will delay conclusion of arbitration proceedings. The captioned petition is, accordingly, dismissed leaving the parties to bear their own costs.

9. It is made clear that any observations made in the order will not come in the way of the petitioner assailing the award finally, if such a need arises once arbitration proceedings are concluded.

Sd/R.S.A.J
21.07.2016

//Certified to be a true copy//
Dated this the day of 2017

R.s/25.02.2017

COURT OFFICER

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