

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 16.06.2017

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THE HONOURABLE DR.JUSTICE ANITA SUMANTH

O.P. No.257 of 2017

Pravisal Projects Private Ltd.,

.. Petitioner

-vs-

1. Union of India
Represented by its General Manager,
Southern Railway,
ParkTown,
Chennai - 600 003.
2. Chief Engineer,
Construction,
Southern Railway,
Egmore,
Chennai - 600 008.
3. Deputy Chief Engineer,
Construction,
Southern Railway,
Arasaradi, Madurai Junction,
Madurai.
4. Shri Kamalesh Shukla,
CMM/Se & G/PER,
Presiding Arbitrator,
Head Quarters Office,
Southern Railway, Park Town
Chennai - 600 003.
5. Shri Prafulla Verma,
Arbitrator,
Chief Engineer/Construction/North
Office of the Chief Administrative Officer/CN
Southern Railway, Egmore, Chennai - 600 008.

6. Shri T.V.Subramanian
Deputy Financial & Chief Accounts Officer,
Southern Railway,
Egmore,
Chennai - 600 008.

.. Respondents

Prayer: Petition filed under Section 11(6) and 14 & 15 of the Arbitration & Conciliation Act, 1996 to appoint an independent third party Arbitrator by terminating the appointment of Respondents 4 to 6 to act as an Arbitrator to hear and decide the dispute in respect of dispute arose in the agreement bearing No. 01/DYCE/CN/I/MDU/HQ/2011 dated 14.03.2011 and to direct the respondents to pay the cost of this petition.

For Petitioner : Mr.V.Sivakumar

For Respondents : Mr. P.T.Ramkumar
Standing Counsel

ORDER

This petition seeks appointment of an independent third party Arbitrator to adjudicate upon disputes inter se the parties and for termination of the appointment of respondents 4 to 6, who were appointed as Arbitrators by the General Manager, Southern Railway on 27.11.2015.

2.Mr.V.Sivakumar, learned counsel appearing on behalf of the petitioner would submit that the claim petition of the petitioner were

filed before the Arbitral Tribunal. At that stage, the Presiding Arbitrator as at that time was transferred and upon request of the petitioner, a list of Arbitrators was circulated by the first respondent to the petitioner out of which two Arbitrators were selected. Thereafter, the fourth respondent was substituted as a Presiding Arbitrator in place of the Arbitrator who had been transferred and all records were transferred to the Presiding Officer on 06.05.2016. No hearings have however been conducted till date and in the meantime, the fourth respondent, the Presiding Arbitrator was again transferred and relinquished charge on 17.06.2016. Requests for nomination at a new Presiding Officer has not been responded to by the Railways and the matter, according to the learned counsel for the petitioner, has been pending since then without adjudication.

3.Mr.P.T.Ramkumar, Standing Counsel would concur with the narration of facts as above.

4.On a consideration of the matter and in view of the pendency of the disputes for more than two years without any adjudication, the prayer in the petition is accepted. Both learned counsel would agree upon and suggest the name of Mr.J.Krishnamurthy, District Judge

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(retired) to act as a sole Arbitrator in place of the Arbitral Tribunal appointed earlier.

5. I, thus, appoint Mr.J.Krishnamurthy, District Judge (retired) having office at No.B2/D, I floor, Nu-Tech Krishna, Old No.15, New No. 37, Soundararajan Street, T.Nagar, Chennai - 600 017 (Mobile No. 9442092363), as the Sole Arbitrator to enter upon reference and adjudicate the disputes inter se the parties. The learned Arbitrator may after issuing notice to the parties and upon hearing them, pass an award preferably within a period of six months from the date of receipt of this order. The learned Arbitrator is at liberty to fix his remuneration and other incidental expenses.

6.The Original Petition is, accordingly, allowed, leaving the parties to bear their own costs.

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