

In the High Court of Judicature at Madras

Dated : 27.01.2017

Coram :

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

O.P.No.31 of 2017

M/s.M.R.K.R. Railone – (J.V),
rep. by its Authorised Signatory
Mr.I.Mallikarjuna Rao,
No.339, Arora Colony-II Road,
No.3, Banjara Hills,
Hyderabad-500 034.

.. Petitioner

-VS-

- 1.The Chief Engineer/CN/South/MS,
Southern Railway,
Egmore, Chennai-600 008.
- 2.The Deputy Chief Engineer,
Construction/III/Madurai, S.Railway,
Arasaradi, Madurai.

.. Respondent

Petition filed under Section 11 (4) of the Arbitration and Conciliation Act, 1996, to appoint an independent and impartial Arbitrator to hear and decide the disputes between the petitioner and the respondents in accordance to the Section 12(5) of the amended Arbitration and Conciliation Act, 1996 arising out of the Agreement dated 26.10.2010 as set out above and to complete the Arbitration Proceedings within the stipulated time decided by this Hon'ble Court.

For Petitioner : Ms.K.Aparna Devi

For Respondents : Mr.P.T.Ramkumar

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ORDER

The proceedings in respect of the measures taken for appointment of the Arbitral Tribunal before the Court under Section 9 of the Arbitration and Conciliation Act, 1996 (herein after referred to "*the said Act*") show that the petitioner did consent to a particular Tribunal being appointed. It is, thereafter, an objection was raised in respect of one of the two Arbitrators suggested by the petitioner, as that person had terminated the contract and the respondents appointed in his place another Arbitrator, who had also been selected by the petitioner. The third Arbitrator was to be appointed by the respondents of their own will.

2. It is thereafter that the petitioner appears to have become wiser and in view of the amendment to the said Act and since the amended provisions would apply, the Tribunal should be constituted in terms of the requirements of the amended Act.

3. In view of the aforesaid position, the learned counsel for the respondents states that a fresh Tribunal as per the arbitration clause will be constituted by invoking the process, keeping in mind the provisions of the amended Act and the first step be taken within a period of one month from today.

4. Time period for filing the cost memo is extended by one week.

5. The original petition, accordingly, stands disposed of, leaving the parties to bear their own costs.

(S.K.K., CJ.)
27.01.2017

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The Hon'ble Chief Justice

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