

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 08.11.2017

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THE HONOURABLE DR.JUSTICE ANITA SUMANTH

O.P. No.727 of 2017

M/s.Sri Lakshmi Narasimha Mining Company
Private Limited
represented by its Director
Mr.M.Kiran Kumar Reddy

.. Petitioner

-vs-

1. M/s.Trans India Shipping Services Pvt. Ltd.,
rep. by its Managing Director,
Ms.Elizabeth Jacob
2. Mr.Yathin Reddy
3. Ms.Jhansi S. Reddy
4. Arbitral Tribunal comprising of
Hon'ble Mr.Justice K.Mohan Ram
No.3, Sivakamipuram, 2nd Cross Street,
Thiruvanmiyur, Chennai - 600 041.

.. Respondents

Prayer: Petition filed under Sections 14, 15 and 11(6) of the Arbitration & Conciliation Act, 1996 to terminate the mandate of the 4th respondent Arbitrator in the dispute between the petitioner and the respondents pursuant to the Arbitration Agreement dated 15.10.2005 and to appoint a new Arbitrator under Section 11 of the Arbitration and Conciliation Act, 1996.

For Petitioner : Mr.P.V.S.Giridhar

For Respondent : Mr.S.R.Raghunathan - R1
Ms.R.J.Radhika - R2 and R3
Mr.Govi Ganesan - R4

ORDER

This petition is filed seeking termination of the mandate of the fourth respondent - Arbitrator appointed after nomination by the respondent by notice dated 17.8.2015 and to appoint a new Arbitrator under Section 11 of the Arbitration and Conciliation Act, 1996. The sum and substance of the petition is that there is no progress in the proceedings in the matter after filing of the reply statement by the petitioner on 17.5.2016.

2. Heard Mr.P.V.S.Giridhar, learned counsel appearing for the petitioner, Mr.S.R.Raghunathan, learned counsel appearing for respondent No.1, Ms.R.J.Radhika, learned counsel appearing for respondent Nos.2 and 3 and Mr.Govi Ganesan, learned counsel appearing for respondent No.4.

3. The learned Arbitrator, who is arrayed as fourth respondent in this petition, has filed a counter strongly refuting the various allegations made in the petition to which a rejoinder has been filed by the petitioner. However, I do not deem it necessary to advert to the various averments therein for the reason that the learned Arbitrator, at paragraph 12 of the counter, has recused himself from the arbitration proceedings. Hence, nothing further survives in the petition.

4. In so far as the present petition also prays for the appointment of a new Arbitrator in terms of Section 11 of the Act, suggestions of the counsels were sought as to an Arbitrator to be appointed by consent. Three names have been circulated by the first respondent. While the learned counsel for the first respondent does not object per se to any one of the names, he would only urge the position that the first respondent does not presently possess the power to appoint the Arbitrator presently. However, learned counsel is agreeable for the appointment of a former Judge of this Court as the arbitrator.

5. I thus appoint Mr. Justice G.M. Akbar Ali, former Judge of this Court residing at No.6, 9th Cross Street, Senthil Nagar, Kolathur, Chennai -99 to adjudicate upon disputes that have arisen between the parties. The learned Arbitrator may, after issuing notice to the parties and upon hearing them, pass an award as expeditiously as possible, preferably within a period of six months from the date of the first sitting. The learned Arbitrator is at liberty to fix his remuneration and other incidental expenses.

6. This Original Petition is disposed of leaving the parties to bear their own costs.

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08.11.2017

Dr.ANITA SUMANTH,J.

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