

]IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

THURSDAY, THE 07TH DAY OF DECEMBER 2017

THE HON'BLE DR. JUSTICE ANITA SUMANTH

A.Nos.7662 and 7663 of 2017

in

A.No.694 of 2017

In the matter of Arbitration
and Conciliation Act, 1996

And

In the matter of Memorandum
of Understanding dated
11.12.2015 between the
Applicant and respondent

M/s. Sugesan Transport Pvt Ltd.,
Rep.by its Director Mr.Kanthibhai Rajendra Sheth
No.7C, Second Canal Road, Gandhi Nagar,
Adyar, Chennai - 600 020. : Applicant/Applicant
(in A.No.7663 of 2017, A.No.694 of 2017)

Vs.

M/s. E.C.Bose and Company Private Limited
ECB Towers, No.13A, St.George Terrace,
P.S.Hastings, Kolkata - 700 022. : Respondent/Respondent
(in A.No.7663 of 2017, A.No.694 of 2017)

A.No.7662 of 2017:

M/s. E.C.Bose and Company Private Limited
ECB Towers, No.13A,
St.George Terrace,
P.S.Hastings,
Kolkata - 700 022.
: Applicant/Respondent

-Vs.-

M/s. Sugesan Transport Pvt Ltd.,
Rep.by its Director
Mr.Kanthibhai Rajendra Sheth
No.7C, Second Canal Road,
Gandhi Nagar,
Adyar, Chennai - 600 020. : Respondent/Applicant

Application praying that this Hon'ble Court be pleased to set aside the order dated 02.05.2017 in the above case.

A.No.7663 of 2017:

Application praying that this Hon'ble Court be pleased to permit the applicant to Amend the Application No.694 of 2017 by permitting the applicant to add the Schedule of Property to the Judges summons in A.No.694 of 2017.

These Applications coming on this day before this court for hearing the court made the following order:-

Application No.694 of 2017 is filed seeking a direction to the respondent to furnish security to the tune of Rs.3.47 crores.

2.Heard Mr.Nithyaesh Natraj, learned counsel for the applicant and Mr.J.Ravikumar, learned counsel for the respondent.

3. A.No.694 of 2017 was first listed on 07.02.2017 when notice was issued to the respondent. Thereafter, it appears that counsel entered appearance for the respondent and sought time on 13.03.2017 for filing counter. The matter was listed thereafter on 04.04.2017 and then before the vacation Court on 02.05.2017, when this Court was pleased to direct the respondent to furnish security as prayed for. According to Mr.Ravikumar, his name was not printed in the

printed cause list on 02.05.2017, though the online cause list appears to have contained the same. This submission is borne out by a noting in order dated 02.05.2017, specifically directing the Registry to print the name of the respondent counsel in the cause list. The order also directs attachment of the property described in the Judges Summons if security as directed is not furnished. A.No.7662 of 2017 has thus been filed by the respondent praying for a setting aside of order dated 02.05.2017.

4. It is to be noted that the prayer is itself only to furnish security, no prayer has been sought vis-a-vis attachment of property and no schedule is filed along with Judges Summons with the description thereof. Hence order dated 02.05.2017 will have to read as containing a direction to furnish security alone. A.No.7663 of 2017 prays for an amendment of prayer in A.No. 694 of 2017 inspired by order of this Court dated 02.05.2017. The application is dismissed.

5. The disputes between the parties has been referred to Learned Arbitrator in O.P.No.113 of 2017 by order dated 14.03.2016 and proceedings for arbitration are stated to be on going. The direction dated 02.05.2017 to furnish security is reiterated, to be complied with, within six weeks from today. The parties are at liberty to seek a modification of the same before the learned Arbitrator who is requested,

after hearing both parties, to consider and adjudicate upon the request.

6. All applications are closed in the aforesaid terms.

Sd/.DR.A.S.M.J
07.12.2017

//Certified to be a true copy//

Dated this the day of 2018.

jj 16.03.2018

COURT OFFICER

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