

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.07.2017

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

O.P.NO.734 OF 2009

&

Tr.O.P.No.825 of 2016

M/s.Indian Oil Corporation Ltd.,
AP State Office,
3-6-436 to 438,
2nd and 3rd Floor,
"NASPUR" House,
Himayat Nagar,
Hyderabad 500 029.

.... Petitioner in O.P.No.734 of 2009
and 1st respondent in
Tr.O.P.No.825 of 2016

Vs

1. M/s.N.R.Patel & Co.,
represented by its Partner
Mr.Hitesh J. Patel,
1st Floor, Desabandhu Plaza,
No.47, Whites Road,
Chennai-14.

... 1st respondent in O.P.No.734
of 2009 and petitioner in
Tr.O.P.No.825 of 2016

2. Mr. V. Balasubramanian,
Sole Arbitrator,
Sr. Manager, (PP & ES),
Indian Oil Corporation Ltd.,
AP State Office,
3-6-436 to 438, 2nd and 3rd Floor,
"NASPUR" House,
Himayat Nagar,
Hyderabad 500 029.

... 2nd respondent in O.P.No.734
of 2009 and Tr.O.P.No.825 of
2016

Prayer in O.P.No.734 of 2009: Original Petition filed under Section 34(2)(A)(IV) & (V), r/w. Section 16(6) of the Arbitration and Conciliation Act, 1996, praying to set aside the award dated 09.06.09 passed by the 2nd respondent and direct the 1st respondent to pay the costs of the petition.

Prayer in Tr.O.P.No.825 of 2016:

Petition filed under section 34 of the Arbitration and Conciliation Act, 1996 praying to set aside the Award dated 09.06.2009 passed by the second respondent and direct the first respondent to pay the costs of the proceedings to the petitioner.

for Petitioner : Mr.R.Ponnusamy

for Respondent : Mr. Manoj Menon

ORDER

Both these Original Petitions challenge an Award of the learned Arbitrator dated 9.6.2009 and are taken up for disposal by way of this common order. The Award has been passed in proceedings to adjudicate upon disputes arising out of a contract between the parties bearing No.15/51/IOCL-DL/Pipe Erection/07/3459 dated 24.04.2001.

2. Pursuant to the issue of tender inviting bids for the work of laying pipelines and other facilities for the dock line project at Vishakapatnam Port, a bid was submitted by the petitioner. M/s.Mecon Limited had been appointed as a consultant

for execution of the work orders. In the course of execution of the project, disputes arose that were referred to arbitration. Though M/s.Mecon Limited, was sought to be impleaded as a necessary party in the proceedings for arbitration, the learned Arbitrator, considering letter dated 10.08.2008 from Mecon, holds that it is not a necessary party to the proceedings.

3. Negotiations appear to have been held by the Arbitrator, pursuant to which, minutes of meeting dated 13.6.2005 and recommendations dated 28.10.2005 were recorded. The Arbitrator, in conclusion, directs the parties to adhere to the terms of the negotiations holding the respondent liable to pay a sum of Rs.78,03,614/- to the claimant within 30 days from the date of Award with interest at 18% thereon, if paid thereafter, till date of realization.

4. Heard Mr.A.Abdul Hameed, learned counsel for the petitioner and Mr.Manoj Menon, learned counsel for the first respondent.

5. Both learned counsel submit jointly that the Award does no justice to the claims raised by either party in the proceedings for arbitration. They would state that they are willing to submit themselves to the process of arbitration yet again to ensure a proper resolution of the matter.

6. I thus allow both Original Petitions setting aside Award dated 9.6.2009.

7. I appoint Mr.AR.L.Sundaresan, Senior Advocate having office at 247, Law Chambers, High court Buildings, Chennai – 600 104 (Mobile No.9841277324) to act as an Arbitrator and enter reference in the matter and adjudicate upon the disputes as arising between the parties. I cannot lose sight of the fact that the disputes have arisen out of Work Order dated 1.2.2001 as between the parties. In view of the substantial elapse of time, the proceedings may be concluded as expeditiously as possible, in any event, within a period of six months from the date of receipt of a copy of this order. The learned Arbitrator is free to decide upon his schedule of fee and expenses as well as the procedure to be adopted in the proceedings. He is also at liberty to adopt the documents already on record from the previous round of Arbitration, if he thinks fit and to save time. The proceedings may be conducted under the aegis of the Madras High Court Arbitration Centre and in accordance with the Madras High Court Arbitration Rules. No costs.

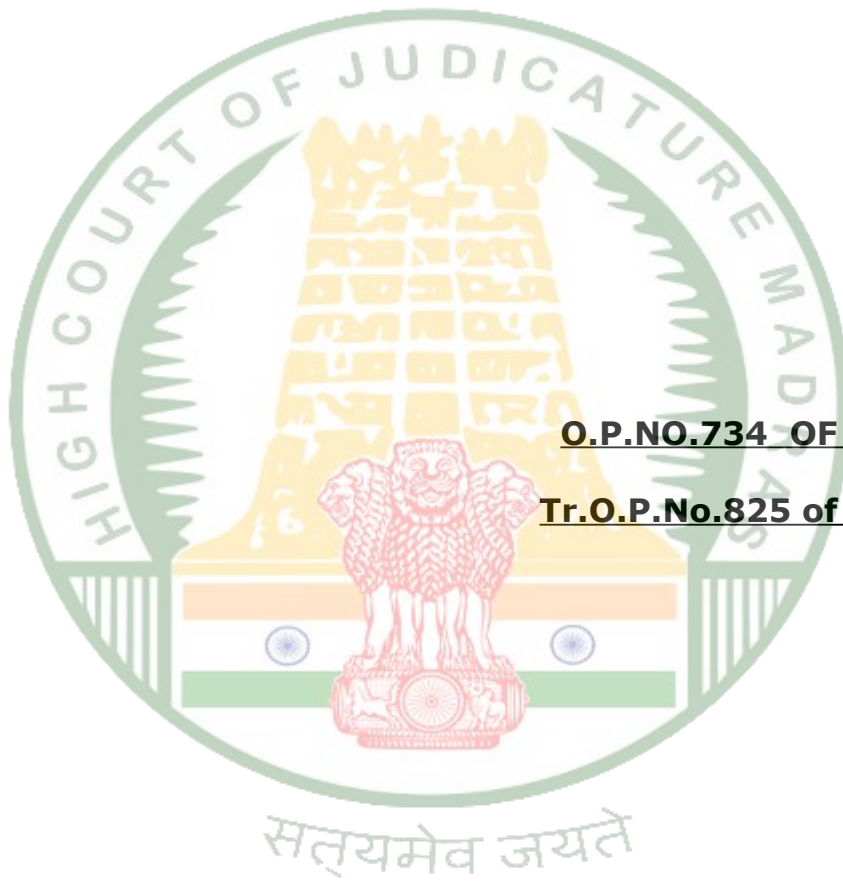
13.07.2017

Index:Yes/No

msr/sl

DR.ANITA SUMANTH, J.

msr/sl



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