

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.01.2017

CORAM

THE HONOURABLE MR.JUSTICE S.NAGAMUTHU
and
THE HONOURABLE MR.JUSTICE N. AUTHINATHAN

O.S.A.Nos.174, 175, 176 and 177 of 2013
and 211, 212, 213 and 214 of 2013
and M.P.Nos.1 of 2014 (4 in nos.)

- 1.BEFESA AGUA, SAU
CIF A 41290792, Avda Buhaire,
2 41018 Sevilla, Spain
- 2.BEFESA INFRASTRUCTURE INDIA PVT LTD.,
2nd Floor, Gee Gee Universal,
No.2 Mc. Nichols Road,
Chetpet, Chennai-600 031
- 3.BEFESA CONSTRUCTION & TECHNOLOGIA
AMBIENTAL SAU Y19 CONSTRUCCIONES Y
DEPURACIONES SAU, UNION TEMPORAL DE
EMPRESAS ("UTE")
CIF A 41290792, Avda Buhaire,
2 41018 Sevilla, Spain

... Appellants in OSAs.174 to 177 of
2013 & OSAs.211 to 214 of 2013

Vs

- 1.IVRCL INFRASTRUCTURE AND PROJECTS LTD.,
M-22/3RT, Vijayanagar Colony, Hyderabad 500 057
represented by its Director R. Balarami Reddy.
- 2.CHENNAI WATER DESALINATION LTD,
30A South Phase 6th Cross Road, TVK Industrial Estate,
Guindy, Chennai-600 032
- 3.M/s CITIBANK N.A. CHENNAI
Ground Floor, Anna Salai,
Chennai - 600 002

... Respondents in O.S.As.174 to 177 of
2013 & OSAs.211 to 214 of 2013

Appeals filed Under Order 36 R.1 of Original Side Rules r/w clause 15 of the Letters Patent against the order of the learned Single Judge dated 02.04.2013 in A.Nos.3370-3371/2011 and O.A.No.610 and 611 of 2011(OSA Nos.174 to 177/2013) and dated 15.04.2013 in Review Application Nos.1769, 1771, 1773 and 1776 of 2013 in A.Nos.3370-3371 of 2011 and O.A Nos.610 and 611 of 2011(OSA Nos.211 to 214 of 2013).

Original Application Nos.610 and 611 of 2011 & Application Nos.3370 and 3371 of 2011 : Original Applications and Applications filed under Section 9 of the Arbitration and Conciliation Act, 1996 :-

a) To grant stay of the Demand Notice, dated 21 July 2011 in reference to Bank Guarantee No.5550225510 dated 14 August 2010 issued by the Third Respondent on behalf of Befesa Infrastructure India Pvt. Ltd., for an amount of Euro 10,79,302.41/- (Euros Ten Lakhs Seventy Nine Thousand Three Hundred Two and Cents Forty One);

b) To grant stay of the Demand Notice, dated 21 July 2011 in reference to Bank Guarantee No.5550225508 dated 14 August 2010 issued by the Third Respondent on behalf of Befesa Construction Y Tecnologia Ambiental SAU Y19 Construcciones Y Depuraciones SAU, Union Temporal De Empresas, lay 18/1982 for an amount of Euro 23,17,385.17 (Euros Twenty Three Lakhs Seventeen Thousand Three Hundred Eighty Five and Cents Seventeen only);

c) Grant interim injunction restraining the 3rd Respondent from remitting any monies pursuant to the Demand Notice dated 21 July 2011 in reference to Bank Guarantee No.5550225510 dated 14 August 2010 issued by the Third Respondent on behalf of Befesa Infrastructure India Pvt. Ltd., for an amount of Euro 10,79,302.41/- (Euros Ten Lakhs Seventy Nine Thousand Three Hundred Two and Cents Forty one); and

d) Grant interim injunction restraining the 3rd Respondent from remitting any monies pursuant to the Demand Notice dated 21 July 2011 in reference to Bank Guarantee No.5550225508 dated 14 August 2010 issued by the Third Respondent on behalf of Befesa Construction Y Tecnologia Ambiental SAU Y19 Construcciones Y Depuraciones SAU, Union Temporal De Empresas, lay 18/1982 for an amount of Euro 23,17,385.17 (Euros Twenty Three Lakhs Seventeen Thousand Three Hundred Eighty Five and Cents Seventeen only).

Review Application Nos.1769, 1771, 1773 & 1776 of 2013 :

Applications filed under Order 47 Rule 1 C.P.C., seeking for review of the Common Order (Decree and Judgment datged 02.04.2013 in A.Nos.3370 & 3371 of 2011 and O.A.Nos.610 & 611 of 2011).

For Appellants : No appearance
For R.1 & R.2 : Mr.Triyambak.J. Kanne
For R.3 : No appearance

COMMON JUDGMENT

[Judgment of the court was delivered by S.NAGAMUTHU, J.]

These appeals are filed against the order of the learned Single Judge dated 02.04.2013 in A.Nos.3370-3371/2011 and O.A.No.610 and 611 of 2011(OSA Nos.174 to 177/2013) and dated 15.04.2013 in Review Application Nos.1769, 1771, 1773 and 1776 of 2013 in A.Nos.3370-3371 of 2011 and O.A Nos.610 and 611 of 2011(OSA Nos.211 to 214 of 2013).

2. When the matters are taken up for hearing, there is no representation for the appellants. The respondents 1 and 2 are ready. These appeals arise out of the Order passed under Section 9 of the Arbitration and Conciliation Act, 1996, seeking interim directions. Arbitration proceedings have been pending from 2011 onwards. The appellants appear to have lost interest in prosecuting these appeals, which is evident from the fact that there is no representation today.

3. Having regard to the fact that the parties can work out their remedy before the Arbitration Proceedings, we are not inclined to interfere with the interim orders. Therefore, all the appeals are dismissed.

4. The learned counsel for the respondents 1 and 2 submitted that there is a talk going between the parties to settle the issue.

5. It is for them to settle and to report before the Arbitration Tribunal. No costs. Consequently, connected MPs are closed.

Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

sr

To

The Sub Assistant Registrar,
(Original Side),
High Court, Chennai.

O.S.A.Nos.174, 175, 176 and 177 of 2013
and 211, 212, 213 and 214 of 2013

TM(CO)
CA(06/02/2017)



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