



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.02.2017

CORAM:

WEB COPY

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P(MD)Nos.674 & 675 of 2016 (PD)

and

C.M.P(MD)No.3142 of 2016

C.R.P(MD)No.674 of 2016

Dominic Savio
The Proprietor,
M/s.Savio Industrial and Structural Corporation,
96/5, KN Colony,
OPP. To Co-operative Industrial Estate,
Salem.Petitioner/Respondent/Respondent

Vs.

1.Chief Engineer,
Gauge Conversion,
Southern Railway,
Arasaradi,
Madurai-16.

2.Chief Engineer,
Regional Southern Railway,
Egmore,
Chennai.

....Respondents/Petitioners/Appellants

PRAYER: Civil Revision Petition is filed, under Article 227 of the Constitution of India, to call for the records pertaining to the order, dated 03.09.2015 passed in I.A.No.1735 of 2015 in unnumbered Arbitration OP subsequently, numbered as Ar.O.P.No.80 of 2015, on the file of the Principal District Judge, Madurai and strike of the same as not maintainable and allow this Civil Revision Petition.

For Petitioner

: Mr.J.Anand Kumar for
V.R.Shanmuganathan

For Respondents

: Mr.A.Hajamohideen
Assisted by M/s.S.Ahila



C.R.P (MD) No.675 of 2016

Dominic Savio
The Proprietor,
M/s.Savio Industrial and Structural Corporation,
96/5, KN Colony,
OPP. To Co-operative Industrial Estate,
Salem.Petitioner/Respondent

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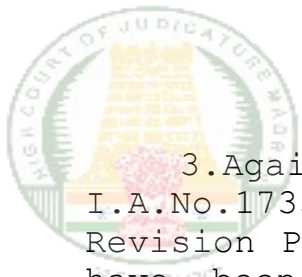
PRAYER: Civil Revision Petition is filed, under Article 227 of the Constitution of India, to call for the records pertaining to the Arbitration OP No.80 of 2015 on the file of the Principal District Judge, Madurai and strike of the same as not maintainable and allow this Civil Revision Petition.

For Petitioner	: Mr.J.Anand Kumar for Mr.V.R.Shanmuganathan
For Respondents	: Mr.A.Hajamohideen Assisted by M/s.S.Ahila

COMMON ORDER

The issue involved in both the CRPs are interlinked and hence, both CRPs are disposed of by common order.

2.The petitioner in C.R.P(MD)No.674 of 2016 is the respondent in Ar.O.P.No.80 of 2015. The respondents filed Ar.O.P.No.80 of 2015 challenging the award, dated 17.02.2015 in case No.M & SEFC/CBER/15/2015 on the file of the Micro and Small Enterprises Facilitation Council, Coimbatore Region, under Section 34(2) & 37 of the Arbitration Act, R/W Order 41 Rule 1 & 2 of the Code of Civil Procedure. The respondents filed I.A.No.1735 of 2015 under Order 27 Rule 8A and 8B and 151 of CPC to dispense with the deposit of 75% of the award amount. According to the respondents, statutory deposit amount of 75% of award amount was not available and respondents have to obtain permission from the higher authorities. The learned Judge allowed the said application.



3. Against the said order of allowing the application in I.A.No.1735 of 2015, the petitioner has come out with the Civil Revision Petition (MD) No.674 of 2016 and C.R.P(MD)No.675 of 2016 have been filed to call for the records pertaining to the Arbitration OP No.80 of 2015 on the file of the Principal District Judge, Madurai and strike of the same as not maintainable.

4. The learned counsel for the petitioner made submissions on merits and that provisions of Civil Procedure Code will not be applicable to the facts of the present case as respondents have challenged the award passed under the Micro, Small and Medium Enterprises Development Act, 2006. Which is a special Act. The reason given by the learned Judge for dispense with deposit of 75% is not valid reason.

5. The learned counsel appearing for the respondents submitted that the respondents are Government Organisation and they have valid defence and have fair change of success in the Arbitration Original Petition. The reason given by the learned Judge to dispense with statutory deposit of 75% is valid one and prayed for dismissal of the Civil Revision Petitions.

6. I have heard the learned counsels appearing for the petitioner and respondents and perused all the materials available on record.

7. The respondents filed I.A.No.1735 of 2015 to dispense with the statutory deposit of 75% of the award and the respondents filed Arbitration O.P., on 15.06.2015. According to the respondents, they were not in a position to deposit the said amount, at that time, as they have to get necessary sanction from the higher authorities. Now, one year and 9 months have been passed from the date of filing of Arbitration O.P. In the circumstances, the Civil Revision Petition in C.R.P.(MD)No.674 of 2016 is allowed directing the respondent to deposit the statutory award of 75% of the award amount within four weeks from the date of receipt of a copy of this order, failing which, Arbitration Original Petition shall stand dismissed. If the respondent deposit the said amount, the learned Judge is directed to dispose the Arbitration O.P., as expeditiously as possible, in any event, not later than 31st July, 2017.

8. In view of the order passed in C.R.P(MD)No.674 of 2016, without deciding the case on merits, C.R.P(MD)No.675 of 2016 is closed. No costs. Consequently, connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar(T&P)



To

The Principal District Court,
Madurai.

+2 ccs to Mr.N.R.Shanmuganathan, Advocate, SR.Nos.11371 and 11372

+2 ccs to Mr.A.Hajamohideen, Advocate, SR.No.11347 and 11348

am

RL/6C/4P/RR/24.3.2017

C.R.P (MD) Nos.674 & 675 of 2016 (PD)

28.02.2017