

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

MONDAY, THE 08TH DAY OF JANUARY 2018

THE HON'BLE DR. JUSTICE ANITA SUMANTH

O.A.No.699 of 2017

In the matter of Arbitration
& Conciliation Act, 1996

And

In the matter of Purchase
order - EB892PO5000058-(P &
D) dated 02.03.2015

M/s.RMC Switchgear Limited
Represented by its Director Ankit Agarwal
7 KM from Chaksu, Khotkawda,
Village-Badodiya, Tehsil Chaksu,
Tonk Road, Jaipur,
Rajasthan - 302017

..Applicant

Vs

1) M/s. Larsen & Toubro Limited, Construction
PB No.979, Mount - Poonamallee Road,
Manapakkam,
Chennai - 600089

2) M/s. Federal Bank Ltd.,
PB No.412,
C-98, Sanghi Upasana Towers,
Subhash Marg, C Scheme,
Jaipur - 302001.

..Respondent

Original Application praying that this Hon'ble Court be pleased to pass an interim order injuncting the Respondent No.1 Larsen & Toubro Limited, Construction from invoking the bank guarantees given by the Applicant and issued by the Respondent No.2 Federal bank, namely Bank Guarantee No.IBG 56356 dated 17.11.2014, Bank Guarantee No.IBG 59755 dated 10.04.2015, Bank Guarantee No.IBG 60369 dated 13.05.2015, Bank Guarantee No.IBG 61548 dated 10.07.2015, Bank Guarantee No.IBG 68188 dated 22.04.2016 and Bank Guarantee No.IBG 68189 dated 22.04.2016 till the

conclusion of arbitration proceedings arising out of and under Purchase Order EB892PO5000058-(P & D) dated 02.03.2015.

This Original Application coming on this day before this court for hearing and the court made the following order:

O.A.No.699 of 2017 has been filed by the applicant seeking an order of interim injunction, restraining the first respondent/Larsen & Tourbo Limited, Construction from invoking the bank guarantees given by the Applicant and issued by the second respondent/Federal Bank, namely Bank Guarantee No.IBG 56356 dated 17.11.2014, Bank Guarantee No.IBG 59755 dated 10.04.2015, Bank Guarantee No.IBG 60369 dated 13.05.2015, Bank Guarantee No.IBG 61548 dated 10.07.2015, Bank Guarantee No.IBG 68188 dated 22.04.2016 and Bank Guarantee No.IBG 61548 dated 10.07.2015, Bank Guarantee No.IBG 68188 dated 22.04.2016 and Bank Guarantee No.IBG 68189 dated 22.04.2016, till the conclusion of arbitration proceedings arising out of and under Purchase Order EB892PO5000058-(P&D) dated 02.03.2015.

2.Heard Mr.Prasad Vijayakumar, learned counsel appearing for the applicant and Mr.V.Sankaranarayanan, learned counsel appearing for the first respondent/Larsen & Tourbo Limited. None appears for the second respondent/Federal Bank. Learned counsel state that proceedings for arbitration have been initiated and are ongoing.

3. The applicant and the respondents entered into a purchase order (PO) dated 02.03.15 for supply of specified Feeder Pillar Boxes with Kit Kat fuses of a total value of Rs.4,43,91,179/-. In accordance with the terms of the PO the applicant had furnished a bank guarantee for an amount of Rs.18,76,740 dated 26.05.15 valid till 31.3.10 issued by Federal Bank, the second respondent herein. Admittedly,

there are other transactions that are on-going between the applicant and the first respondent in respect of which also bank guarantees have been furnished by the applicant. Disputes arose between the parties in relation to PO dated 02.03.15 on account of which proceedings for arbitration have been initiated by the applicant on 29.11.2017 in terms of Clause 16 of the PO. The respondent, in accordance with the Clause for arbitration, has nominated a sole arbitrator and proceedings are on-going.

4. The trigger for the present application are certain e-mails issued by the first respondent to the applicant threatening to invoke all bank guarantees of the applicant citing the present dispute between the parties, irrespective of the fact that the guarantees correspond to other pending work orders. Vide e-mail dated November 30, 2016, the respondent writes:

'In the mean while request to forward your detailed plan for rectification and replacement before 2.12.16, failing which L&T reserves the right for invoking the CPBG's submitted for the other projects also.'

On 28th December, 2016, the threat is reiterated in the following terms:

'We want your firm action plan and implementation before 29.12.16, 2.00PM, failing which L&T reserves the right for carrying out the rectification work including the supply at the risk and cost of RMC by invoking your Bank guarantees supplies for all the projects.'

5.A detailed counter has been filed by the first respondent refuting all averments in the application and praying for a rejection of the same. However, Mr.Sankaranarayanan, learned Counsel appearing for the first respondent would fairly state before me that the Bank Guarantees issued with respect to other work orders are not liable to be invoked in connection with the present work order in which the dispute has arisen and undertakes that the first respondent would refrain from doing so.

6.Recording the aforesaid undertaking, this application is closed.

Sd/.A.S.M.J

08.01.2018

//Certified to be a true copy//

Dated this the th day of 2018.

KY/17.01.2018

COURT OFFICER

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