



WEB COPY

1

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

THURSDAY, THE 09TH DAY OF AUGUST 2018

THE HON'BLE MR.JUSTICE ABDUL QUDDHOSE

O.P. No. 412 of 2014

In the matter of Arbitration
and Conciliation Act 1996
and

In the matter of partial
Arbitral Award Dt. 13.03.2014
made in case No 18664/CYK in
relation to dispute as to
Jurisdiction of Sole
Arbitrator appointed as per
International Chamber of
Commerce (ICC) Rules. Between

VME Precast Pvt. Ltd.,
Represented by its Director
No.364, Pillaiar Koil street,
Paneer Nagar,
Mogappair, Chennai 600 037.

:Petitioner

Vs

1. Lemminkainen Construction (India) Pvt. Ltd.,
(Formerly known as Lemcon Construction Pvt. Ltd.,)
4/115, Ragavendra 1st Street,
Balaiah Garden, Madipakkam,
Chennai 600 091.

:1st Respondent

2. Mr.Shreyas Jayasimha
The Sole Arbitrator
78, 1st Main Road, 16th Cross,
AECS Layout, Sanjay Nagar,
Bangalore.

:2nd Respondent

Original Petition praying that this Hon'ble Court may
be pleased to set aside the Partial Award ICC International
Court of Arbitration Case No. 18664/CYK on the file of the
2nd respondent/sole Arbitrator dated 13.03.2014.



WEB COPY

This Original Petition coming on this day before this Court for hearing in the presence of Mr.V.Ayyadurai, Senior Counsel for Mr.A.Durai Eswar, Advocates for the petitioner herein, and the respondents herein not appearing in person or by advocate and upon reading the petition and the Award dated 13.03.2014 filed herein, and this court having observed that as seen from the records even though both parties were agreeable for conciliation/negotiation and neither of the parties have stated that the conciliation/negotiation failed, the finding of the Arbitrator that there is no settlement by way of negotiation is a perverse finding and apart from the above findings, the Arbitrator has also given another perverse finding by observing that the request for change in the Arbitral procedure by the first respondent cannot be sought for by the first respondent since it is inconsistent with Clause 13 of the Contract dated 03.03.2010 which is the existing arbitration clause and the parties can agree to a change of arbitral procedure at any point of time and there is no bar under the Arbitration and Conciliation Act for any of the parties to change the procedure of arbitration even though under the original contract they agreed for a different arbitral procedure and in view of the perverse finding given by the learned Arbitrator, the Award passed by the learned Arbitrator is patently illegal, It is ordered as follows:-

That the Award dated 13.03.2014 passed against the petitioner by the second respondent Arbitrator herein be



and is hereby set aside.

WEB COPY

2. That the first respondent herein be and is hereby permitted to initiate fresh arbitration against the petitioner in accordance with law.

3. That there shall be no costs.

WITNESS THE HON'BLE THIRU HULUVADI GANGADHARAPPA RAMESH, ACTING CHIEF JUSTICE, HIGH COURT AT MADRAS AFORESAID, THIS THE 09th DAY OF AUGUST 2018.

Sd./-

ASSISTANT REGISTRAR (O.S.II)

//Certified to be true copy//

Dated at Madras this the day of 2018.

COURT OFFICER(O.S.)

From 25th Day of September 2008 the Registry is issuing certified copies of the Orders/Judgments/Decrees in this format.



4

sk

28.08.2018

WEB COPY

O.P. No.412 of 2014

ORDER

DATED: 09.08.2018

THE HON'BLE MR.JUSTICE
ABDUL QUDDHOSE

FOR APPROVAL:30.08.2018

APPROVED ON : 31.08.2018