

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.07.2017

CORAM

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

O.P. No.858 of 2017

M/s. Larsen & Turbo Ltd.,
L & T Construction,
Mount Poonamallee Road,
Manapakkam,
Chennai 60 0089.

.. Petitioner

-vs-

1.M/s. INDARYA Green Power (P) Ltd.,
No.132, II Floor, Thirumala Complex,
Royapettah High Road, Royapettah,
Chennai 600 014.

2.Mr.Aboobucker

.. Respondents

Prayer: Petition filed under Section 11(4) of the Arbitration & Conciliation Act, 1996 to appoint the respondent's nominee arbitrator to constitute the arbitral tribunal to resolve the disputes that have arisen between the parties so that the said two nominees could appoint the presiding arbitrator.

For Petitioner : M/s. Preeti Mohan

For Respondents : Mr.Krishna Ravindran

ORDER

This petition seeks the appointment of the respondent's nominee arbitrator to constitute the arbitral tribunal to resolve the disputes that have arisen between the parties pursuant to an agreement for Engineering, Procurement and Constructions (EPC) dated 19.04.2013.

2. Heard the learned counsel appearing for the parties.

3. The EPC Agreement provides for Arbitration between the parties as the means of dispute resolution. The clause, at 8.7 of the Agreement, reads thus:-

"Any dispute, which is not resolved in accordance with Clause 8.4, shall be exclusively, definitely and finally settled by arbitration. The arbitration shall be conducted under the Arbitration and Conciliation Act, 1996."

4. My attention was also drawn to clause 8.4 of the said agreement which provides for an amicable settlement to be explored between the parties and it is stated that the parties have made some attempts in that direction even during the pendency of this petition.

5. Notwithstanding the aforesaid, the learned counsel agreed to pursue the claim for Arbitration.

6. During the course of hearing, respondents had nominated upon instructions, Justice E.Padmanabhan, Former Judge of the Madras High Court as their nominee in the Panel of Arbitrators. Learned counsel for the petitioner has nominated Justice K.Govindaraj, Former Judge of the Madras High Court as its nominee.

7. The presiding arbitrator shall be appointed by consent of both the aforesaid nominees of the petitioner and the respondent in terms of Clause 8.10 of the EPC Agreement, dated 19.04.2013. The Panel of learned Arbitrators are at liberty to fix their remuneration and schedule of expenses, which shall be borne by both the parties equally. The learned Arbitrator shall enter upon reference and after issuing notice to the parties and upon hearing them, pass an award as expeditiously as possible, preferably within a period of six months from the date of receipt of the order. As requested, the arbitration proceedings will be conducted under the aegis of the Madras High Court Arbitration Centre and the parties will

be governed by the Rules of the Centre.

Dr.ANITA SUMANTH, J.

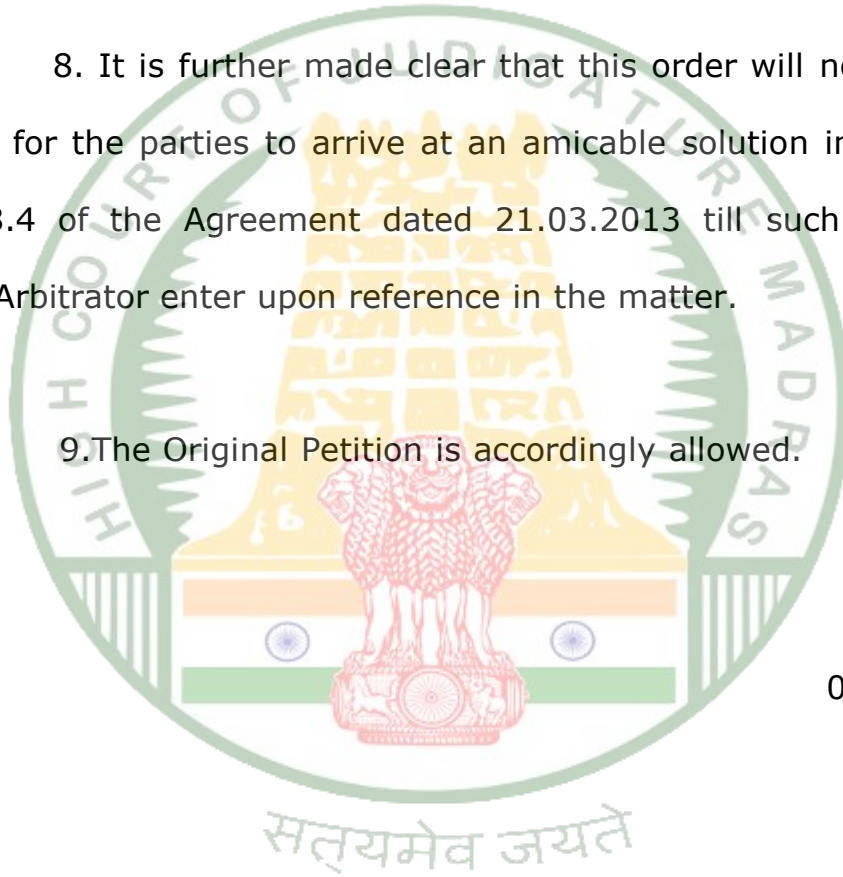
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8. It is further made clear that this order will not operate as a bar for the parties to arrive at an amicable solution in terms of clause 8.4 of the Agreement dated 21.03.2013 till such time the learned Arbitrator enter upon reference in the matter.

9.The Original Petition is accordingly allowed.

smi

06.07.2017



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