

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 22.02.2018

CORAM

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

O.P. No.65 of 2018

D.Ramanathan

.. Petitioner

-vs-

1.The General Manager,
Southern Railway,
Park Town,
Chennai-600 003.

2.The Principal Chief Engineer,
Southern Railway,
Park Town,
Chennai-600 003.

3.The Senior DEN/Works/MAS,
Southern Railway,
Divisional Office,
Works Branch,
Chennai-600 003.

.. Respondents

Prayer: Petition filed under Section 11(6) of the Arbitration & Conciliation Act, 1996 to appoint an impartial and independent Arbitrator in terms of Contract Agreement No.52/Works dated 06.05.2013, Clause 13 (C) of the Regulations for Tenders and Contractors and Instructions to Tenderers and Conditions of Tender read with Clause 63 & 64 of Indian Railways Standard General Conditions of Contract and direct the respondents to pay the costs of this petition.

For Petitioner : Mr.G.Arul Murugan

For Respondents : Mr.P.T.Ramkumar

ORDER

This petition seeks appointment of an impartial and independent Arbitrator in terms of Contract Agreement No.52/Works dated 06.05.2013, Clause 13 (C) of the Regulations for Tenders and Contractors and Instructions to Tenderers and Conditions of Tender read with Clause 63 & 64 of Indian Railways Standard General Conditions of Contract.

2.Heard Mr.G.Arul Murugan, learned counsel appearing for the petitioner and Mr.P.T.Ramkumar, learned counsel appearing for the respondent.

3.The disputes between the parties are admitted.

4.The petitioner made a request for appointment of Arbitrator on 22.07.2017 in response to which the first respondent has sought waiver of the condition under Section 12(5) of the Arbitration and Conciliation Act (in short 'the Act').

5. Pending decision by R1, and in effect precipitating any such decision, a communication dated 16.08.2017 has been issued by the third respondent rejecting the request for reference of matter to arbitration.

6.Mr.P.T.Ramkumar, learned counsel appearing for the respondents would fairly state that the rejection by R3 is not in order insofar as the third respondent is not the competent authority to consider and grant the request for reference of matter to Arbitration.

7.Be that as it may, subsequent to letter dated 16.08.2017, the petitioner has, in fact, executed a waiver under Section 12(5) of the Act and acting upon the same, the first respondent has circulated a letter dated 04.01.2018 nominating a panel of arbitrators.

8. Drawing from the panel nominated by R1, I appoint Mr.P.Kamban, DY.FA&CAO/Budget/MAS as Arbitrator upon consent expressed by the petitioner in this regard.

9. R1 is directed to issue necessary orders appointing the aforesaid officer as the sole Arbitrator to adjudicate upon disputes that have arisen between the parties out of Contract Agreement No.52/Works dated 06.05.2013 in accordance with the arbitration clause, within a period of two weeks from the date of receipt of a copy of this order. The learned Arbitrator is requested to complete the proceedings within a period of four months therefrom.

Dr.ANITA SUMANTH,J.

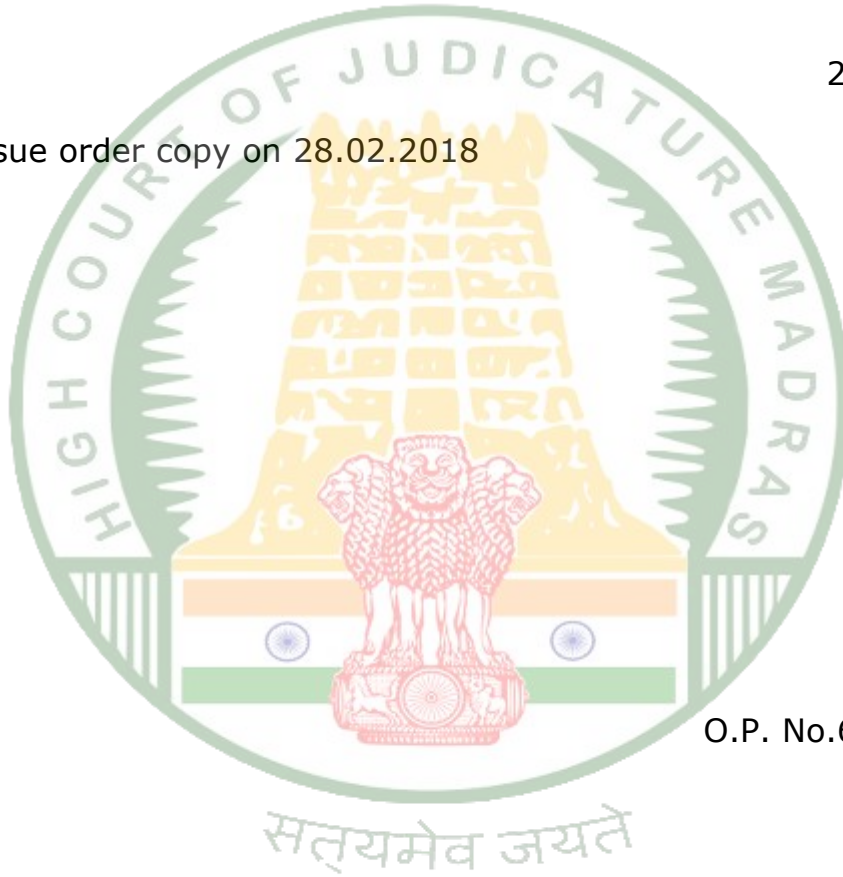
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10.This original petition is allowed in the above terms. No costs.

22.02.2018

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Note: Issue order copy on 28.02.2018



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