

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.06.2018

CORAM

THE HON'BLE MS.INDIRA BANERJEE, CHIEF JUSTICE
and
THE HON'BLE MS.JUSTICE P.T.ASHA

O.S.A.No.150 of 2018
and C.M.P.No.8553 of 2018

M/s.Larsen & Toubro Limited,Constructions
P.B.No.979, Mount Poonamallee Road,
Manapakkam,
Chennai - 600 089. .. Appellant/Applicant

vs.

M/s.Baby Engineering Pvt. Ltd.,
rep. by its Director Mr.A.Harish,
No.3.37, Developed Plot Estate,
Thuvakudi,
Trichirapalli-15. .. Respondent/Respondent

Appeal filed under Order Section 37 of the Arbitration and
Conciliation Act 1996 against the order dated 16.4.2018 passed
in O.A.No.49 of 2018 on the file of this Court.

For Appellant .. Mr.Nithyaesh

For Respondent .. Mr.N.C.Ashok kumar

JUDGMENT

(Delivered by P.T.Asha, J.)

The appellant has preferred the above appeal challenging the order dated 16th April 2018 passed in O.A.No.49 of 2018, in and by which, the learned Single Judge of this Court has extended the interim order for a period of eight weeks directing the parties to approach the learned Arbitrator.

2. The appellant is only aggrieved by the observation made by the learned Single Judge in paragraph 9 of the interim order

dated 16th April 2018, which reads as follows:

"9. It is contended by the applicant that the respondent had sent a mail along with revised shop drawing based on which the applicant manufactured the product with a channel width of ISMC-200. However the same, according to the applicant, is denied by the respondent alleging performance deficiency and had taken steps to invoke PBG dated 07.07.2017. As held in Gangotri Enterprises, when the claim is neither an admitted sum nor a sum which stood adjudicated by any Court of law, the respondent cannot invoke and encash the Bank Guarantee."

3. It is contended by the learned counsel appearing on behalf the appellant that such an observation would influence the learned Arbitrator while considering and passing orders in an application filed under Section 17 of the Arbitration and Conciliation Act, 1996.

4. Considering the limited scope, the Original Side Appeal is disposed of with an observation that the learned Arbitrator shall consider the application under Section 17 of the said Act uninfluenced by any of the observation made in the order impugned. No costs. Consequently, C.M.P.No.8553 of 2018 is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

bbr

To

The Sub Assistant Registrar,
Original Side, High Court, Madras.

+2cc to Mr.Nithyaesh, Advocate sr.no.34944
+1cc to Mr.C.Jagadish, Advocate sr.no.35153

O.S.A.No.150 of 2018

nr 22/06/2018