

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.04.2018

CORAM
THE HONOURABLE MR.JUSTICE **N. SATHISH KUMAR**

C.S.No.730 of 2015 and
A.No.7633 of 2015

C.S.No.730 of 2015

M/s.G.R. Construction,
rep.by Mr.K. Ravisankaran,
having office at Plot No.50,
New No.7, 2nd Street,
Sairam Nagar, Camp Road,
Selaiyur,
Chennai 600073.

... Plaintiff

-VS-

1. M/s.Kriti Machinery Pvt. Ltd.,
No.11, 2nd Main Road,
Nehru Nagar, Adyar,
Chennai 600020.

2. Mr. Sadeesh Premananth
Managing Director

3. Mr. Suppaiah, Director

... Defendants

A.No.7633 of 2015

1. M/s.Kriti Machinery Pvt. Ltd.,
No.11, 2nd Main Road,
Nehru Nagar, Adyar,
Chennai 600020.

2. Mr. Sadeesh Premananth
Managing Director

... Applicants

-vs-

M/s.G.R. Construction,
rep.by Mr.K. Ravisankaran
[This application is not pressed against
3rd defendant Mr.Suppaiah]

... Respondent

Prayer in C.S.No.730 of 2015

Plaint filed under Order VII Rule 1 and 2 of Civil Procedure Code read with Order IV Rule 1 of Madras High Court Original Side Rules for directing the defendants to pay a sum of Rs.74,74,955/- along with future interest at 24% per annum on the principal amount of Rs.55,18,195/- from the date of the plaint till the date of payment.

Prayer in A.No.7633 of 2015

Application filed under Order 14 Rule 8 of O.S.Rules r/w Section 8 of the Arbitration Act 1996 to refer the subject matter of C.S.No.730 of 2015 on the file of this Court, for arbitration as per the contract agreement dated nil/2010 entered into between the applicants and respondent relating to development of Plot No.B15, SIPCOT Industrial Park, Oragadam, Chennai.

For Plaintiff : Mr. V. Manohar
in CS.No.730/2015
and Respondent
in A.No.7633/2015

For Defendants : Mr. K. Sankaran
in CS.No.730/2015
and Applicant
in A.No.7633/2015

JUDGMENT

Application No.7633 of 2015 has been filed under Section 8 of Arbitration Act 1996, to refer the subject matter of C.S.No.730 of 2015 on the file of this Court, for arbitration as per the contract agreement dated nil/2010 entered into between the applicants and respondent relating to development of Plot No.B15 SIPCOT Industrial Park, Oragadam, Chennai.

2. It is contended by the learned counsel for the respondent that there is no specific clause in the agreement entered into between the parties to refer the dispute to the arbitrator in the event of any dispute relating to the contract.

3. The original agreement is also filed along with the application. Clause 33 of the agreement specifically provides, in case any dispute or difference arise between the parties with regard to the quality of materials used by the Contractor or work done or in respect of delay in completion of

works or in respect of payment of extra work required to be done and so executed or in respect of measurement of work done or in respect of delay of payment to the contractors or touching the interpretation, fulfillment of any of the terms of these presents or any other matter arising out of or connection with these presents or carrying out of the work, shall be referred to Architects (M/s.Pithavadian And Partners) in writing for their decision; opinion and if no decision is given by the Architects within 30 days, then both parties can move in Court for Arbitration proceedings.

4. Though the counsel appearing for the respondent initially argued that there is no concluded contract, after some time he has conceded and submitted that the matter can be referred to the Arbitrator appointed by the Court and he has no objection. The learned counsel appearing for the applicant has also no objection to refer the matter any arbitrator appointed by the Court and he has also made an endorsement in this application itself in this regard.

5. Even though the parties in the said agreement, agreeing to refer the dispute or difference to M/s.Pithavadian and Partners, Architects, now, both the learned counsel submitted that instead of Arbitrator, a retired Judge of this High Court may be appointed as Arbitrator in this matter.

6. In view of such arrangement arrived between the parties to refer the matter to the Court appointed Arbitrator, I am of the view that appointing of different Arbitrator, other than the one mentioned in the agreement, no prejudice will be caused to either party.

7. Accordingly, the Honourable Mr. Justice K. Venkataraman (retired) is appointed as Arbitrator in this Case and the matter is referred to the Arbitrator to arbitrate the dispute. Both the learned counsel have agreed to have Honourable Mr. Justice K. Venkataraman as Arbitrator in this matter.

8. The fees of the Arbitrator shall be as per law. The fees and expenses shall be borne by the parties equally. The parties are at liberty to agitate their respective claims before the Arbitrator.

9. Since the entire matter is referred to the Arbitrator, the plaintiff/respondent is entitled to get refund of court fee paid on the plaint. The plaintiff/respondent is also at liberty to file fresh dispute, before the Arbitrator.

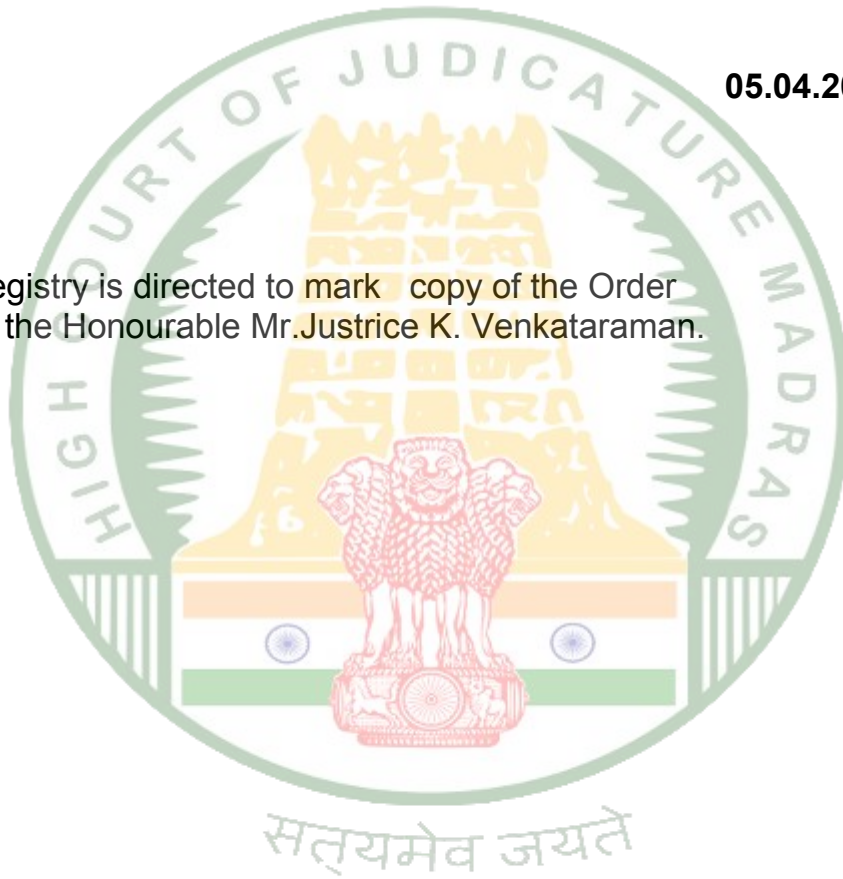
10. In view of the above, **the application and suit are disposed of.**

No costs. The documents produced by the plaintiff and defendants shall be returned to them.

05.04.2018

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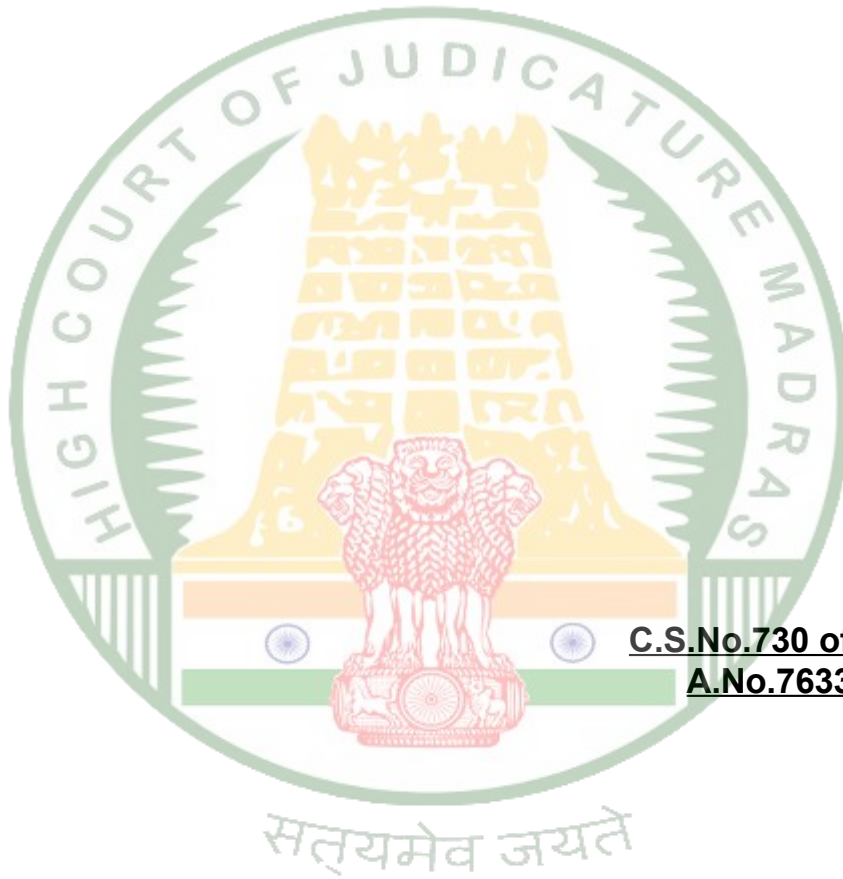
Note : Registry is directed to mark copy of the Order to the Honourable Mr.Justrice K. Venkataraman.



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N.SATHISH KUMAR, J

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