

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.06.2018

CORAM :

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P. No.92 of 2018

and C.M.P.No.2646 of 2018

M/s.Savio Industrial and Structural
Corporation,
Rep. by its Proprietor V.X.Dominic Savio
95/5, Salem Cuddalore Main Road,
K.N.Colony Post,
Salem - 636 014. Petitioner

Vs.

- 1.The Deputy Chief Manager,
Construction 1
Southern Railway Tambaram,
Chennai 600 045.
- 2.The Chief Engineer/South
Construction/Southern Railway,
Egmore, Chennai 600 006. Respondents

Prayer:- Petition is filed under Section 24 of C.P.C., to withdraw the Ar.O.P.No.5 of 2017 pending on the file of the District Court, Tiruchirapalli and transfer the same to the file of the District Court, Salem to be tried along with pending & disposal of jointly with the Ar.O.P.No.79 of 2017.

For Petitioner : Mr.P.Mohanraj

For Respondents : R.Prajeesha
for M/s.P.T.Ramkumar
for RR1 & 2

O R D E R

This petition is filed to withdraw the Ar.O.P.No.5 of 2017 pending on the file of the District Court, Tiruchirapalli and transfer the same to the file of the District Court, Salem to be tried along with Ar.O.P.No.79 of 2017.

2. According to the petitioner, the petitioner firm undertook contract for doing fabrication, construction of road over bridge and erection of platform shelters, etc., to the respondents. After completion of contract in the year 2003, the respondents did not settle the final payment. Dispute was referred to Arbitration and award was passed on 20.10.2016. Aggrieved by the said Award, the petitioner has filed Ar.O.P.No.79 of 2017 on the file of the District Court, Salem. The respondents have filed counter in the said Arbitration Appeal. Subsequently, the respondents have filed Ar.O.P.No.5 of 2017 on the file of the District Court, Tiruchirapalli, challenging the very same award. The District Court, Tiruchirapalli has no jurisdiction to decide the issue. Only the District Court, Salem is the competent Court to decide the issue. If two different Courts hear and pass orders on the same award, there may be conflicting orders. In the circumstances, the petitioner firm has come out with the present Transfer Civil Miscellaneous Petition.

3. The learned counsel for the respondents submitted that only the District Court at Tiruchirapalli has jurisdiction to entertain and pass orders with regard to Arbitration Award. The District Court at Salem has no jurisdiction and prayed for dismissal of the Transfer Civil Miscellaneous Petition.

4. Heard the learned counsel for the petitioner as well as the respondents and perused the materials available on record.

5. From the averments in the affidavit filed in support of the above Transfer Civil Miscellaneous Petition, it is seen that the petitioner and respondents have challenged the very same Award before the District Court at Salem and District Court at Tiruchirapalli. According to the petitioner, the District Court at Tiruchirapalli has no jurisdiction to entertain and decide the Ar.O.P.No.5 of 2017 filed by the respondent.

6. In view of the fact that the petitioner has filed Ar.O.P.No.79 of 2017 earlier to filing of Ar.O.P.No.5 of 2017 by the respondents and respondents have filed counter affidavit in the said Original Petitions, without deciding the above issue on merits, Ar.O.P.No.5 of 2017 pending on the file of the District Court, Tiruchirapalli is ordered to be withdrawn and transferred to the file of the District Court, Salem to be tried along with Ar.O.P.No.79 of 2017 in order to avoid multiplicity of proceedings and conflicting judgments being delivered by two different Courts. The learned District Judge, Tiruchirapalli is directed to transmit all the records pertaining to Ar.O.P.No.5 of 2017 to the file of the District Court, Salem within a period of two weeks from the date of receipt of a copy of this order. On receipt of such records, the learned District Judge, Salem is

directed to dispose of both Ar.O.P.Nos.5 and 79 of 2017 within a period of four months from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

gsa

TO

1.The District Judge, Tiruchirapalli.

2.The District Judge, Salem.

3.The Deputy Chief Manager,
Construction 1
Southern Railway Tambaram,
Chennai 600 045.

4.The Chief Engineer/South
Construction/Southern Railway,
Egmore, Chennai 600 006.

+1cc to Mr.P.T.RAMKUMAR, Advocate, S.R.No.36417
+2cc to Mr.P.MOHANRAJ, Advocate, S.R.No. 36187

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and C.M.P.No.2646 of 2018

VBA(CO)
TR(21/06/2018)

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