

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

FRIDAY THE 12TH DAY OF OCTOBER 2018

THE HON'BLE MR. JUSTICE C.SARAVANAN

A. No.7619 of 2018
in
O.A. No.899 of 2018

O.A. No.899 of 2018:-

In the matter of Arbitration
& Conciliation Act, 1996

And

In the matter of Arbitration
of dispute between M/s.Sally
Thermoplastic India Limited
Vs. M/s. Learning Leadership
foundation in relation to
the Agreement dated
15.07.2013.

M/s.Sally Thermoplastic India Limited
Rep. by its Managing Director,
Mr.Mohammed Hariss
229, C/2, III Floor, Raahat Plaza,
172, Arcot Road,
Vadapalani, Chennai 600 026.

... Applicant

-Versus-

M/s.Learning Leadership Foundation
Rep.by its Authorised Signatory
Mrs.Sita Uma Maheswaran
1211, Padma Towers-I,
5, Rajendra Place,
New Delhi 110 008.

... Respondent

A. No.7619 of 2018:-

M/s.Learning Leadership Foundation,
Rep.by its Authorised Signatory

Mrs.Bhavani Baskar,
1211, Padma Towers-I,
5, Rajendra Place,
New Delhi 110 008.

... Applicant/Respondent

-Versus-

M/s.Sally Thermoplastic India Limited,
Rep. by its Managing Director,
Mr.Mohammed Hariss
229, C/2, III Floor, Raahat Plaza,
172, Arcot Road,
Vadapalani, Chennai 600 026. ... Respondent/Applicant

Application praying that this Hon'ble Court be pleased to vacate/suspend the order of injunction dated 28.09.2018 made by this Hon'ble Court in O.A. No.899 of 2018.

This application coming on this day before this court for hearing the court made the following order:-

By an order dated 28.09.2018 in O.A.No.899 of 2018, this Court granted interim injunction to restrain the applicant herein from appointing M/s.Royal Durga Logistics as their transporter from terminating the contract with the respondent.

2.The interim order was in force till 31.10.2018.

Thereafter, the applicant filed the Application No.7619 of 2018 to vacate the interim order and has filed documents, which show already an agreement has been signed with

M/s.Royal Durga Logistics on 20.08.2018.

3.The respondent was appointed as a transporter to pick and drop school children of the applicant, which agreement came to an end on 31.05.2018.

4.Meanwhile, after expiry of the main agreement, the applicant was allowed to ply buses by the respondent for a further period of four months i.e., till 30.09.2018. It was at this stage the respondent approached this Court and filed O.A.No.899 of 2018.

5.Heard, Mr.V.Prakash learned Senior counsel for the applicant and Mr.Aravind Pandian learned Senior counsel for the respondent.

6.The applicant submits that it has purchased 20 buses for its requirement as the talks for take over and purchase of used buses of the respondent failed. The applicant had offered a sum of Rs.1.75 Crores, which was not accepted by the respondent.

7.By a letter dated 25.07.2018, the respondent

requested for extension of period till first term of the school i.e., 30.09.2018 or till their buses are fully purchased.

8.The learned counsel for the applicant submits that they have appointed Hon'ble Mr.Justice K.N.Basha (Retd.) as an arbitrator to resolve the disputes between the parties who has also expressed his desire to act as arbitrator.

9.The learned counsel for the applicant submits that a sum of Rs.60,18,465/- is due and will be paid to the respondent.

10.Several submissions were advanced on either side. However, I am not inclined to get into the disputed questions of the facts of the case, touching on the merits as arbitrator has entered upon reference.

11.It is made clear that the respondent shall not use or poach the employees of the respondent for the school services under the new service agreement without permission of the Arbitral Tribunal.

12.In view of the same, Application No.7619 of 2018 shall stand allowed. Consequently, O.A. No.899 of 2018 is dismissed with liberty to the respondent to approach the learned arbitrator under Section 17 of the Arbitration and Conciliation Act, 1996 for appropriate orders.

Sd/-C.S.N.J

12/10/2018

//Certified to be a true copy//

Dated this the day of 2018

JJ 16.11.2018

COURT OFFICER

From 25.09.2008 the Registry is issuing certified copies of the Order/Judgment Decree in this format.

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