

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.04.2019

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH
and
THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

C.M.P.No.10905 of 2018

in

M.P.No.1 of 2009

in

O.S.A.No.210 of 2009

Tamil Nadu Electricity Board,
represented by its
Chief Engineer/Projects,
NPKRR Maaligai,
No.800, Anna Salai,
Chennai - 600 002.

...Petitioner

Vs

1. M/s.W.S.Industries (India) Ltd.,
Porur, Chennai - 600 116.

2. P.Janakiraman, FIE,
Presiding Arbitrator,
M 436/7, Royal Enclave,
3rd Avenue, Anna Nagar (East),
Chennai - 600 102.

3. S.Elamurugan
Arbitrator,
D/4, Mathura Terrace,
60, New Avadi Road,
Kilpauk, Chennai - 600010.

4. K.C.Rajappa,
Arbitrator, "Srinivas"
New No.184, 294/295,
Lloyds Road, Royapettah,
Chennai - 600 014.

... Respondents

Civil Miscellaneous Petition filed under Order XIV Rule 8 of Original Side Rules and Section 151 of CPC praying to order payment out of Rs.65,00,000/- deposited in M.P.No.1 of 2009 in O.S.A.No.210 of 2009, together with interest thereon.

For Petitioner : Mr.N.C.Ramesh, Senior Counsel
for Mr.T.Sivaprakasam

For Respondents: Mr.R.Murari [R1]

O R D E R

[Order was delivered by R.SUBBIAH,J]

Civil Miscellaneous Petition has been filed praying this Court to order payment out of Rs.65,00,000/- deposited in M.P.No.1 of 2009 in O.S.A.No.210 of 2009, together with interest thereon.

2. Heard learned senior counsel for petitioner and learned counsel for first respondent.

3. Petitioner herein is the Tamil Nadu Electricity Board. O.P.No.631 of 2004 has been filed by petitioner u/s.34 of the Arbitration and Conciliation Act, 1996, challenging the award dated 30.04.2004 allowing the claim made by first respondent herein ordering refund of a sum of Rs.34,46,861.84 with varying rate of interest for various period. This Court, under order dated 19.09.2008, reduced the interest to 12%. In all other aspects, the award remains unaltered. Against such order, petitioner has filed O.S.A.No.210 of 2009. Petitioner has also filed M.P.No.1 of 2009 seeking stay of the order dated 19.09.2008 in O.P.No.631 of 2004 pending disposal of the appeal. The Division Bench of this Court, under order dated 24.07.2009, admitted the appeal and granted interim stay with condition to deposit a sum of Rs.65,00,000/- to the credit of the appeal in the name of Registrar General, High Court, Madras, within a period of six weeks. As the petitioner has deposited the said amount, the interim stay was made absolute. The main appeal has been disposed of by order dated 18.06.2010 setting aside the order passed in O.P.No.631 of 2004 and remanding the matter back to the learned Single Judge for considering the petition u/s.34 of the Arbitration and Conciliation Act afresh on merits. Learned Single Judge, under order dated 13.02.2012, set aside the award and remanded the matter again to the Arbitral Tribunal. There against, first respondent/claimant filed O.S.A.No.109 of 2012 and the Division Bench of this Court, under order dated 01.11.2017, set aside the order dated 13.02.2012 passed in O.P.No.631 of 2004 and remanded the matter to the learned Single Judge to hear and dispose of the Original Petition in tune with and in accordance with the judgment of the earlier Division Bench of this Court in O.S.A.No.210 of 2009 dated 18.06.2010. Presently, the matter is pending before the learned Single Judge.

4. Petitioner/Electricity Board filed the present miscellaneous petition seeking payment out of Rs.65,00,000/- deposited in M.P.No.1 of 2009 in O.S.A.No.210 of 2009, together with interest thereon. However, learned counsel for first respondent/claimant has vehemently opposed the petition.

5. As the Original Petition is pending for hearing, this Court is of the view that it is not now necessary to order payment out of Rs.65,00,000/- deposited in M.P.No.1 of 2009 in O.S.A.No.210 of 2009. If the petitioner succeeds in the Original Petition, he is entitled to withdraw the amount at that point of time.

Accordingly, the Civil Miscellaneous Petition is dismissed. Learned Single Judge is requested to dispose of O.P.No.631 of 2004 at the earliest.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

gm

To

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

+1 cc to Mr.T.Sivaprakasam, Advocate, S.R.No.35039

+1 cc to Mr.T.Sivaprakasam, Advocate, **S.R.No.35885(15/07/2019)**

C.M.P.No.10905 of 2018
in M.P.No.1 of 2009
in O.S.A.No.210 of 2009

AD(CO)
SSM(24/04/2019)
SSM(15/07/2019)

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