

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.06.2019

CORAM

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

O.P.No.378 of 2019

M/s.Threekay Constructions
rep. by its Partner,
N.Karuppasamy
No.5/381, Shanthi Nagar 2nd Street,
Athiramapatti Road,
Tuticorin-628 002.

.. Petitioner

Vs.

M/s.Transstroy (India) Limited
rep. by its Authorized Signatory
Opp. To JNIT Technologies/Batronics
Kavuri Hills, Hyderabad,
Telangana-500 081.

Km 34, NH-7A, Tirunelveli-Tuticorin Highway
Kumaragiri Village, Pudukottai
Tuticorin-628 005.

.. Respondent

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Prayer : Original Petition filed under Section 11(5) of the Arbitration and Conciliation Act, 1996 praying to appoint an Arbitrator to resolve the dispute between the petitioner and the respondent that has arisen in terms of Work Orders dated 21.11.2012, 27.03.2013 and 03.05.2013 in accordance with Section 11(5) of the Arbitration and Conciliation Act, 1996.

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For Petitioner : Mr.B.Vijay

ORDER

This Original Petition has been filed with a prayer to appoint an Arbitrator to resolve the dispute between the petitioner and the respondent that has arisen in terms of Work Orders dated 21.11.2012, 27.03.2013 and 03.05.2013 in accordance with Section 11(5) of the Arbitration and Conciliation Act, 1996.

2. The petitioner, a civil engineering contractor, was given sub-contracts by the respondent with respect to three works awarded upon them by the Chief Engineer, V.O.C. Port Trust. The total value of the contracts runs to Rs.279.25 lakhs, which were completed as early as in the year 2014. Though the respondent settled bills qua first and second works, the final bills raised by the petitioner were not settled and thus, there was an outstanding of Rs.77,95,727/-. Though the petitioner was willing for an one time settlement of Rs.60,00,000/-, the respondent did not agree for the same. Hence, they filed a writ petition before the Madurai Bench of this Court in W.P.(MD)No.11468 of 2018, which was disposed of on 30.05.2018 with directions. In spite of the same, nothing fruitfully fructified. Thus, the petitioner invoked the arbitration clause and appointed a retired Judge of this Court. However, the respondent did not agree for the appointment and nominated another Chief Engineer to be their nominee. In such

circumstances, this petition is filed with the aforesaid prayer.

3. Heard the learned counsel for the petitioner and perused the materials placed before this Court.

4. Having considered the submissions of the learned counsel for the petitioner, this Court appoints Mr.P.Rosiah, a retired District Judge, residing at No.F-157, Vairam Apartments, S Block, 5th Street, Anna Nagar East, Chennai-600 102 (Mobile No.95512 84699), as the Sole Arbitrator to enter upon reference and adjudicate the disputes inter se the parties. The learned Arbitrator may, after issuing notice to the parties and upon hearing them, pass an award as expeditiously as possible, preferably within a period of six months from the date of receipt of the order. The learned Arbitrator is at liberty to fix his remuneration and other incidental expenses. The proceedings may be conducted under the aegis of the Madras High Court Arbitration Centre and in accordance with the Madras High Court Arbitration Rules.

5. This Original Petition is ordered accordingly, leaving the parties to bear their own costs.

26.06.2019

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PUSHPA SATHYANARAYANA, J.

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