

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

WEDNESDAY, THE 31ST DAY OF JULY 2019

THE HON'BLE MR. JUSTICE R.SUBRAMANIAN

A.No. 3670 of 2019

in

A.No.1964 of 2019

IN

E.P.No.7 of 2017

in

Arbitration Award Case No.M & SEFC/CBER/11/2016

E.P.No.7 OF 2017 & A.No.3670 OF 2019

P.Ponram,
Managing Partner,
Unicon Engineers,
513/A/6 Bharathi Road,
Chinnavedampatti,
Coimbatore-641 049.

...Applicant/Petitioner/
Decree-holder claimant

-Versus-

The Manager (Materials),
M/s.Tamil Nadu Cements Corporation Ltd.,
L.L.A.Building II Floor,
735, Anna Salai,
Chennai-600 002.

... Respondent/Respondent
Judgment-Debtor

A.No.1964 of 2019

The Manager (Materials),
M/s.Tamil Nadu Cements Corporation Ltd.,
L.L.A.Building II Floor,
735, Anna Salai,
Chennai-600 002.

... Applicant/Respondent

-Vs.-

P.Ponram,
Managing Partner,
Unicon Engineers,
513/A/6 Bharti Road,
Chinnavedampatty,
Coimbatore-641 049.

..Respondent/Decree Holder

A.No.3670 of 2019:

Application praying that this Hon'ble Court be pleased to withdraw the deposited amount of Rs.3,00,00,000/- (Rupees three crores only) in the account No. ROC.37193 dated 16.04.2019 to the credit of E.P.No.7 of 2017.

This Application coming on this day before this Court for hearing, the Court made the following order:-

In compliance with the conditional order dated 11.03.2019, the applicant has deposited a sum of Rs.3,00,00,000/- (Rupees Three Crores only) to the credit of the E.P.No. 7 of 2017. The application under Section 19 of the Micro, Small and Medium Enterprises Development Act, 2006 to set aside the award along with an application to dispense with the pre-deposit was originally dismissed by the Single Judge and in appeal the Division Bench has allowed the applicant to deposit the difference amount between Rs.3,00,00,000/- which has already been deposited pursuant to the conditional order dated 11.03.2019 and 75% of the award amount, which is the statutory requirement.

2. Mr. A.Sivaji, learned counsel appearing for the applicant would submit that the balance amount as directed by the Division Bench has also been deposited. In the meanwhile, the respondent / decree holder seeks permission

to withdraw a sum of Rs.3,00,00,000/-, which has been directed to be deposited. The award was passed on 04.06.2016, more than 3 years are lapsed. The respondent, which is a privileged industry coming within the scope of the Micro, Small and Medium Enterprises Development Act for protection of which a fast track mechanism has been provided under the Act has been deprived of the benefits of the decree. As of today, there is no stay of execution granted in the application filed under Section 19 of the said Act and the same is not even numbered. I do not think it will be just and reasonable to keep the decree holder at bay for more than three years particularly, when an award has been passed by the council and the application to set aside the award has been successfully kept pending without even being numbered for three years. Hence, A.No.3670 of 2019 is allowed, applicant is permitted to withdraw a sum of Rs.1,50,00,000/-, for the present, from the amount deposited to the credit of the Execution Petition.

Sd./-R.S.M.J
31.07.2019

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Dated at Madras this the day of 2019.

JJ 02/08/2019

COURT OFFICER(O.S.)

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