

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

THURSDAY, THE 31ST DAY OF JANUARY 2019

THE HON'BLE MR.JUSTICE M.GOVINDARAJ

A.Nos. 6671 & 6672 of 2018

in

O.P. Nos.698 & 699 of 2016

O.P. No.698 of 2016

A.No. 6671 of 2018:

In the matter of Arbitration
and Conciliation Act, 1996

and

In the matter of Project for
conversion MSB-TPJ-DG to
B.G.Final location survey
for conversion from MG to BG
including design and
preparation of drawing and
tender schedule etc.,
Villupuram (incl) to
Vriddhachalam (incl) dated
29th June 1993.

M/s. Jayshila Consultants
2, 1st Floor, Gokul Towers,
7, C.P.Ramasamy Road,
Chennai 600 018.

... Applicant/Petitioner

-Versus-

The Deputy Chief Engineer,
Gauge Conversion - I, Southern Railways,
State Bank Road, Trichy - 1.

... Respondent/Respondent

A.No. 6671 of 2018:

Application praying that this Hon'ble Court be pleased
to appoint a Sole Arbitrator from the panel of this Hon'ble
Court as per the provisions of the Arbitration &
Conciliation Act, 1996 to adjudicate all disputes between
the applicant and the respondent.

O.P. No.699 of 2016:

A.No. 6671 of 2018:

In the matter of Arbitration and Conciliation Act, 1996

and

In the matter of Project for conversion Madras Beach - Tiruchchirappalli - Dindigul to B.G.Final location survey for conversion from MG to BG including design and preparation of drawing and tender schedule etc., Vridhachalam (Excl) to Ariyalur (Incl) dated 29th June 1993.

M/s. Jayshila Consultants
2, 1st Floor, Gokul Towers,
7, C.P.Ramasamy Road,
Chennai 600 018.

... Applicant/Petitioner

-Versus-

The Deputy Chief Engineer,
Gauge Conversion - I, Southern Railways,
State Bank Road, Trichy - 1. ... Respondent/Respondent

A.No. 6672 of 2018:

Application praying that this Hon'ble Court be pleased to appoint a Sole Arbitrator from the panel of this Hon'ble Court as per the provisions of the Arbitration & Conciliation Act, 1996 to adjudicate all disputes between the applicant and the respondent.

These Applications coming on this day before this court for hearing, the Court made the following order:-

These applications are filed seeking to appoint a sole arbitrator from the panel of this Court as per the provisions of the Arbitration and Conciliation Act, 1996 to adjudicate all disputes between the applicant and the

respondent.

2. This court in O.P.Nos.698 and 699 of 2016, by its order dated 27.1.2017, directed the petitioner to provide the copies of papers to the respondent and to assess the scope of resolution of the dispute arose between both the parties considering the claim amount is only about 5 lakhs.

3. The petitioner was directed to serve the papers on the respondent within two weeks and a direction was given to the respondent to suggest a panel of three arbitrators unconnected with the contract in question, out of which, the petitioner would select one of them as an arbitrator within a period of six weeks therefrom if the resolution is not feasible.

4. Pursuant to receipt of the above said order of this court, the respondent on 8.3.2017, made a request to the applicant to send all the related materials supporting his claim as directed by this court, accordingly the applicant sent all the agreements and correspondences on the very same day.

5. Learned counsel for the applicant would submit that the applicant sent several communications dated 7.4.2017, 30.11.2017, 14.11.2017, 02.09.2017 and 10.5.2018 to the

respondent to comply with the order dated 27.1.2017, but the respondent neither came forward to resolve the disputes, nor suggested the panel of three arbitrators, enabling the petitioner to choose one out of them as the sole arbitrator.

6. Learned counsel for the respondent would submit that on 26.09.2017, in response to the letters dated 7.4.2017 and 02.09.2017 of the petitioner, the respondent requested the petitioner to attend the office with all relevant documents in connection to the agreement. This was followed by a communication dated 10.10.2017, 13.01.2018, 26.6.2018 and 17.09.2018.

7. In spite of exchange of communications between the parties, the respondent has not chosen to forward the panel of arbitrators to the petitioner as directed by this court. Therefore, the applicant is before this Court for appointment of arbitrator.

8. It is seen that both the parties have been sending communications, but they have not resolved their disputes. In the above stated circumstances, the petitioner in O.P.Nos.698 and 699 of 2016 as applicant herein has filed the present applications seeking appointment of a sole arbitrator to resolve the disputes between them.

9. Considering the facts and circumstances of the case and also taking note of the fact that the parties have neither arrived at a settlement nor the respondent suggested the panel of arbitrators, this court is inclined to appoint an independent arbitrator .

10. Accordingly, I thus appoint Ms.Tamilarasi, Advocate, having office at .Phase 1, Mezzanine Floor, No.158/781, Rayala Towers, Anna Salai, Chennai 600 002, as the Sole Arbitrator to enter upon reference and adjudicate the disputes inter se the parties. He 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.

11.The Original Petition is, accordingly, allowed, leaving the parties to bear their own costs.

Sd./-M.G.R.J
31/01/2019

//Certified to be true copy//
Dated at Madras this the day of 2019.

COURT OFFICER(O.S.)

jj 26/11/2019

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