

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.08.2019

CORAM

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

O.P.No.515 of 2019

RPN Engineers Chennai Pvt. Ltd.,
M-60, 9th Street,
Anna Nagar East,
Chennai-600 102. .. Petitioner

Vs.

1. The General Manager,
Southern Railway,
Headquarters Office,
Park Town, Chennai-600 003.

2. The Deputy Chief Engineer,
Gauge Conversion,
Southern Railway,
Chetpet, Chennai-600 031.

now known as

3. The Deputy Chief Engineer,
Construction,
Southern Railway,
Tambaram,
Chennai-600 045.

.. Respondents

* * *

Prayer : Petition filed under Section 11(4) of the Arbitration and Conciliation Act, 1996, praying to appoint an independent and impartial arbitrator to hear and decide the disputes between the petitioner and the respondent arising out of the contract No.78/GC/MSD/2014, dated 18.12.2014.

* * *

For Petitioner : Mr.P.Subba Reddy

For Respondents : Mr.P.T.Ramkumar

ORDER

This Original Petition is filed seeking for appointment of an independent and impartial arbitrator to hear and decide the disputes between the petitioner and the respondent arising out of the contract No.78/GC/MS/2014, dated 18.12.2014.

2. The petitioner is the successful bidder in the tender Notice No.1/CE/CN/MS/2014 (OT), dated 03.01.2014 called for by the respondents. The Letter of Acceptance dated 22.09.2014 was issued by the respondents, as per which, a Performance Bank Guarantee for Rs.42,13,350/- was submitted by the petitioner and twelve months time limit was fixed for completion of the entire work. The petitioner also executed an Agreement with the second respondent on 18.12.2014. The petitioner alleged that there were so many lapses on the part of the respondents, which caused enormous delay in the commencement of the work, ultimately, resulting in delay in the completion of the same. Though the petitioner executed various works, which were not covered by the contract, at the instance of respondents, they have not been paid promptly. In spite of all these

hindrances, the petitioner completed the entire contract on 17.10.2018. But the failure on the part of the respondents to make payments in respect of legitimate claims triggered the invocation of the arbitration vide notice dated 16.04.2019. The respondent, despite receiving the said notice on 22.04.2019, failed to reply. In such circumstances, the petitioner is before this Court in this petition.

3. Heard the learned counsels appearing on behalf of the parties. Learned counsels for the parties agreed for the appointment of a retired Judge of this Court as the sole Arbitrator.

4. Considering the above factual position and the submission of the parties, this Court appoints Hon'ble Mr. Justice R. Balasubramanian, a retired Judge of this Court, residing at No.5, Tiger Varadachari I Road, Kalakshetra Colony, Besant Nagar, Chennai-600 090 (Phone No.044-24466699), 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 shall be conducted preferably in the Madras High Court

PUSHPA SATHYANARAYANA, J.

gg

Arbitration Centre and in accordance with the Madras High Court Arbitration Rules.

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

gg

05.08.2019



O.P.No.515 of 2019

WEB COPY