

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.10.2019

CORAM

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

O.P.No.706 of 2019

Sri Ganga Transport, Sole Proprietor
Mr.V.G.Jeyakumar
formerly known as Mr.V.G.Jeyakumar,
D-13, CMDA, Truck Terminal Complex,
Madavaram, Chennai-600 010. .. Petitioner

Vs.

Union of India
rep. by the Divisional Railway Manager (Commercial),
Chennai Division, Southern Railway,
II Floor, NGO Annexe,
Park Town, Chennai-600 003. .. Respondent

* * *

Prayer : Petition filed under Section 11(5) of the Arbitration and Conciliation Act, 1996, praying to appoint a Sole Arbitrator to decide the disputes between the petitioner and the respondent arising out of the contract for manning the vehicle parking stand at Chepauk Railway Station.

* * *

For Petitioner : Mr.K.Ravindranath

For Respondent : Mr.P.T.Ramkumar,
Standing Counsel

ORDER

The petitioner has instituted this Original Petition seeking for appointment of a Sole Arbitrator to decide the disputes between the

petitioner and the respondent arising out of the contract for manning the vehicle parking stand at Chepauk Railway Station.

2. The petitioner is the successful bidder in the tender notification issued by the respondent in M/C.300/Parking/Tenders/10/2013, dated 04.10.2013 for the award of contracts for manning vehicle parking stand at Chepauk Railway Station. It furnished a Bank Guarantee in the sum of Rs.59,86,667/- and also paid Advance License Fee of Rs.30,53,200/- for three months, besides making caution deposit for electrical & energy charges. The respondent sent a letter dated 26.03.2014 to the petitioner accepting its offer for the period from 01.04.2014 to 31.03.2017, in which, the petitioner was directed to provide temporary covered structure at the Vehicle Parking Stand and also level and fence the area, which costs it around Rs.9,00,000/-. However, when the officials of the respondent visited the site on 30.04.2014, the petitioner was orally informed that the Bank Guarantee furnished by it was a forged document and on the same day, the Station Master of the Chepauk Railway Station, served the petitioner the termination letter dated 30.04.2014 without any reasons. The petitioner sent a letter dated 06.05.2015 to the General Manager, Southern Railway asking refund of EMD, Advance License Fee and the amount of Rs.9,00,000/- spent by him for putting

temporary shed, etc., with interest, which was rejected by the Senior Divisional Commercial Manager, vide letter dated 22.09.2015.

3. Questioning the said letter, W.P.No.13918 of 2016 was filed by the petitioner, which was disposed of by this Court on 20.02.2019 directing the parties to initiate arbitral proceedings in terms of Clause 37 of the Agreement. Though the petitioner sent a legal notice dated 06.05.2019 to the respondent invoking the said clause nominating a retired Judge of this Court as the Sole Arbitrator, the respondent did not bother to send reply, but sought the petitioner to give an agreement to waive the applicability of Section 12(5) of the Arbitration and Conciliation Amendment Act, 2015. In such circumstances, the petitioner is before this Court in this petition with the aforesaid prayer.

4. Heard the learned counsels on either side, who are agreeable for the appointment of any Senior Advocate of this Court as the Sole Arbitrator to decide the disputes between them.

5. Considering the submissions of the learned counsels for the parties, Mr.C.Manishankar, Senior Advocate, having office at No.271, Law Chambers, High Court Buildings, Chennai-600 104, (Phone

No.044-2534 2022), is appointed 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 Arbitration Centre and in accordance with the Madras High Court Arbitration Rules. The appointment of the Arbitrators will be subject to the disclosure and declaration made, as per the Sixth Schedule to the Arbitration and Conciliation Act, 1996 coupled with the amendments made therein.

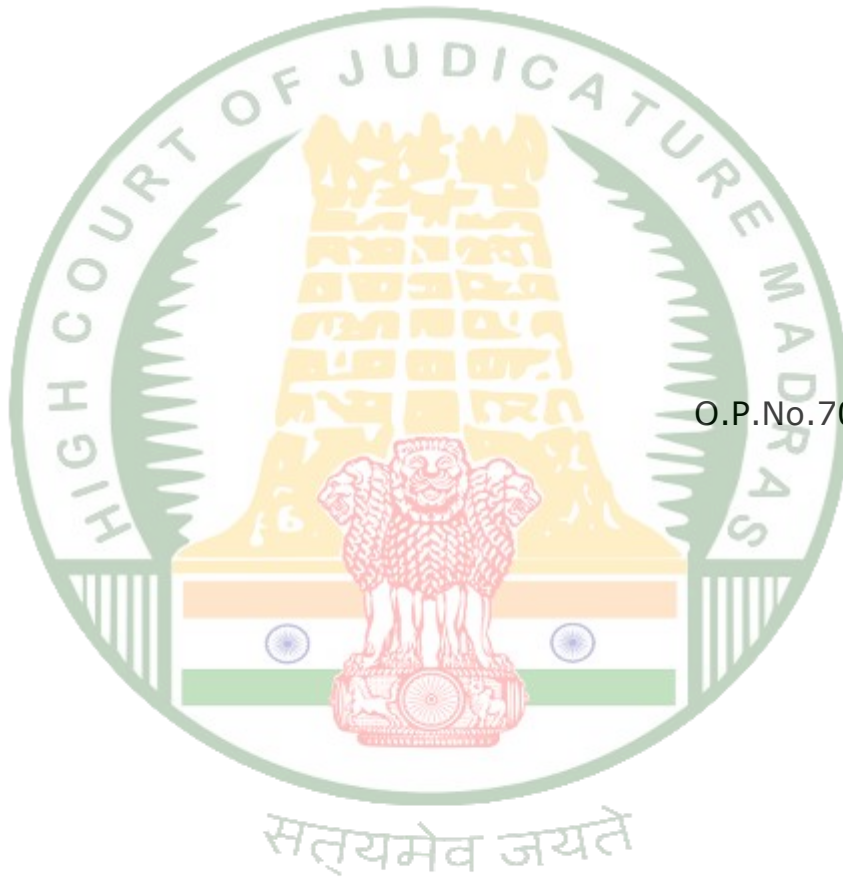
6. The Original Petition is ordered accordingly. The parties shall bear their own costs.

23.10.2019

Index : Yes / No
Internet : Yes
Speaking Order/Non-Speaking Order
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PUSHPA SATHYANARAYANA, J.

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