

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 6.8.2019

CORAM

THE HONOURABLE DR.JUSTICE VINEET KOTHARI
AND
THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

O.S.A.No.184 of 2019
and
C.M.P.No.17062 of 2019

The Manager (Materials)
M/s.The Tamil Nadu Cements
Corporation Limited,
LLA Building, II Floor,
No.735, Anna Salai,
Chennai 600 002.

Appellant

Versus

P.Ponram

Respondent

Prayer: Original Side Appeal filed under Order XXXVI Rule 9 of O.S. Rules read with Clause 15 of Letters Patent against the order of this court dated 31.7.2019 in 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.

For Appellant : Mr.R.Krishnan

For Respondents : Mr.M.Aniruthan

JUDGMENT

(Judgment of the court was made by Dr.VINEET KOTHARI, J.)

This Appeal has been filed by the Tamil Nadu Cements Corporation Limited, the Respondent/Judgment Debtor under the provisions of Micro, Small, Medium Enterprises Development Act, 2006, in short MSME Act, aggrieved by order dated 31st July 2019 passed by the learned Single Judge in 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 (P.Ponram vs. The Manager (Materials), M/s.Tamil Nadu Cements Corporation Ltd.)

2. The learned Single Judge, by the impugned order, has observed that since the amount of 75% has been deposited by the Respondent-Judgment Debtor during the pendency of the E.P. proceedings to maintain the Appeal under Section 19 of the Act the appeal for setting aside the Award, out of that amount a sum of Rs.1,50,00,000/- may be disbursed to the Decree-holder P.Ponram, the Managing Partner of Unicon Engineers.

3. The learned counsel for the Appellant, Mr.R.Krishnan submitted that the proviso to Section 19 of the Act requires that any amount to be disbursed to the Decree-holder can be so disbursed only subject to reasonable conditions, but, the learned Single Judge has not imposed any such condition in the order impugned before this court. He further submitted that the 75% of the Award amount in deposit, has to remain in deposit in the Executing Court below viz., the learned Single Judge.

4. On the other hand, the learned Counsel, Mr.M.Aniruthan appearing for the Respondent, supported the impugned order.

5. Having heard the learned counsel for the parties, we are of the opinion that the present Appeal deserves to be disposed of with a direction to the Decree-holder that he will furnish an Undertaking in the court below that in case the present Appellant, M/s.Tamil Nadu Cements Corporation Limited succeeds before the Executing Court, the Appellant would refund the sum of Rs.1,50,00,000/- with interest at 6% per annum from the date of receipt to the date of refund. The disbursement of Rs.1,50,00,000/- to the Decree-holder will be subject to the final decision of the Executing Court.

6. With this observation, the present Appeal is disposed of. Office may number the Application filed under Section 19 of the MSME Act, before the learned Single Judge. No costs. The connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(Co)

//True Copy//

Sub Assistant Registrar

ssk.

To:

1.The Registrar General,High Court,Madras

2.The Sub Assistant Registrar,Original Side, High Court,Madras

3. The Section Officer,
Account Section,High Court,Madras

+1cc to Mr.A.Sivaji , Advocate SR.No. 67761

+2ccs to Mr.M.Aniruthan , Advocate SR.No. 66902

O.S.A.No.184 of 2019

nr (CO)

A.SK(13/08/2019)