

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

THURSDAY, THE 21ST DAY OF NOVEMBER 2019

THE HON'BLE MR. JUSTICE SENTHILKUMAR RAMAMOORTHY

A.NO.8037 OF 2019

IN

O.P.NO.180 OF 2013

In the matter of Arbitration
& Conciliation Act 1996
and

In the matter between
Rosewood Projects Private
Limited and Imeco Limited
Arbitration Case O.P.
No.525/2004 dated
14.12.2010.

Imeco Limited,
26, R.N.Mukherjee Road,
Kolkatta-700 001
and is carrying on business
through its division
"T&T Drilling Solutions",
32, T.T.K.Road, Alwarpet,
Chennai-600 018.

...Applicant/Petitioner

-Versus-

1. Rosewood Projects Private Limited,
Having its registered office at
A.80, Ground Floor,
Lake Gardens,
and its Head Office at
G.110 B Ground Floor, New Delhi.

2. Mr.Justice N.V.Balasubramanian,
Judge (Retd.), Sole Arbitrator,
No.40, Sankarapuram,
Mylapore,
Chennai-600 004.

..Respondents/Respondents

Application praying that this Hon'ble Court be

pleased to set aside the order dated 06.08.2019 which was

dismissed for default and restore the same and

determination under law be not ordered.

This application coming on this day before this court for hearing the court made the following order:

This application is filed to set aside the order dated 06.08.2019, whereby the O.P was dismissed for default and to restore the said O.P.

2. I heard the learned counsel for the applicant and the learned counsel for the first respondent.

3. The learned counsel for the applicant submits that O.P.No.180 of 2013 was filed by the applicant herein against the award dated 14.12.2010 and the said O.P was listed for hearing on 06.08.2019 when this Court dismissed the said O.P. although the petitioner requested for an adjournment. According to the learned counsel for the applicant, an adjournment was requested because the senior lawyer who was handling the case was out of station. Consequently, it is submitted that non-prosecution was neither willful nor wanton. It is also submitted that the petition filed by the first respondent to set aside the arbitral award, O.P.No.622 of 2011 is pending and that this is an additional reason to restore O.P.No.180 of 2013.

4. In response, the learned counsel for the respondent submits that such non-prosecution is not excusable but that if this Court is inclined to allow the application, it should be allowed on terms.

<https://hcservices.ecourts.gov.in/hcse5vices/> Upon considering the above submissions made by the learned counsel and on examining the affidavit dated

08.08.2010 in support of this application, I am of the view that the default in prosecution of the case by the applicant is excusable on account of the non-availability of the senior lawyer on the said date and keeping in mind the fact that O.P.No.622 of 2011 is pending adjudication. Accordingly, this application is allowed and the Registry is directed to restore O.P.No.622 of 2011 on file and list both O.P.Nos.180 of 2013 & 622 of 2011 for hearing on 04.12.2019.

Sd/.S.K.R.J.
21.11.2019

//Certified to be a true copy//

Dated this the day of 2019.

SU.03.12.2019

COURT OFFICER

From 25.09.2008 the Registry is issuing certified copies of the Order/Judgment Decree in this format.

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