

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 04.09.2019

CORAM:

THE HON'BLE MR. JUSTICE P.D.AUDIKEVALU

W.P. No.24999 of 2019

M/s.A-1 Security Services and A-1 Facility Services,
Rep by its Partner,
Mr.S.Venkatesh,
S/o.Subramani,
No.2/439,
1st Floor, Mount Poonamallee High Road,
Iyappanthangal,
Chennai - 600 056.

... Petitioner

Vs.

The Principal,
Kendriya Vidyalaya School,
Near Rajiv Swagruha Apartments,
Kothur,
Podalakur Road,
AK Nagar, P.O.,
Nellore - 524 004.

... Respondent

Prayer:- Writ petition filed under Article 226 of Constitution of India, to issue a writ order or direction, specifically in the nature of Writ of Mandamus directing to the respondent to pay the outstanding amount of Rs.7,93,476/- as per the agreement dated 01.05.2018 to the Petitioner.

For Petitioner : Mr.K.Gowthaman

For Respondent : Mr.J.Madhanagopal Rao

O R D E R

Mr. J. Madhanagopal Rao, Learned Central Government Standing Counsel who takes notice for the Respondent points out that the Petitioner has an effective alternative remedy to resort to arbitration for adjudication of the dispute between the parties, invoking paragraph No. 2.5 of the Agreement dated 01.05.2018, entered between the parties.

2. The Learned Counsel appearing for the Petitioner submits that the Petitioner has already made a request by letter dated 17.07.2019 to appoint an Arbitrator, but the Respondent failed to take any action in that regard, which has necessitated the Petitioner to file this Writ Petition.

3. Having regard to the fact that the Petitioner has an effective alternative remedy under Section 11 of the Arbitration and Conciliation Act, 1996, to pursue the claim for appointment of the Arbitrator, if the Respondent fails to appoint the Arbitrator within the specified time limit, it would not be appropriate to entertain this Writ Petition to decide the disputes relating to non-payment of dues between the parties. Further, sufficient provisions are also available under Sections 9 and 17 of the Arbitration and Conciliation Act, 1996, for granting interim relief till the arbitral proceedings attain finality.

4. In view of the aforesaid legal position, Learned Counsel for the Petitioner seeks permission of this Court to withdraw the Writ Petition with liberty to resort to the aforesaid alternative remedy and he has made an endorsement to that effect, which is recorded.

5. Accordingly, the Writ Petition is dismissed as withdrawn, granting such liberty. No costs.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

ub/gsa
To

The Principal,
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Near Rajiv Swagruha Apartments,
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A.SK(18/09/2019)