

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.12.2019

Coram

The Hon'ble Mr. Justice M.M.SUNDRESH
and
The Hon'ble Mr. Justice KRISHNAN RAMASAMY

O.S.A.No.324 of 2019
and C.M.P.No.26416 of 2019

The Metropolitan Transport Corporation
(Chennai) Ltd.,
rep. By its Managing Director,
Pallavan House, Anna Salai,
Chennai - 2. ... Appellant

Vs

1.M/s.Sowil Limited
rep. By its Secretary,
Good Will Avenue,
Plot No.1, Sector No.40,
First Floor, Nerul,
Navi Mumbai - 400 706.

2.Hon'ble J.Kanakaraj,
Arbitrator,
No.2, Justice Ramanujam road,
Thiruvanmiyur, Chennai - 41. .. Respondents

Appeal preferred under Section 37 of the Arbitration and Conciliation Act r/w Order XXXVI Rule 1 of O.S. Rules r/w Clause 15 of Letters Patent against the order dated 10.07.2019 made in O.P.No.371 of 2013.

For Appellant ... Mr.S.R.Rajagpalan, AAG, Asst
by Mr.R.Chidambaram

For Respondents.. Mr.C.Seethapathy for R1

JUDGMENT

(Judgment of the Court was delivered by M.M.SUNDRESH, J.)

The appellant herein was the petitioner before the learned single Judge. Challenge made was to the award passed by the second respondent.

2.Unfortunately, when the matter was taken up, the appellant could not appear. Learned counsel for the appellant submitted that the appellant is a statutory Corporation and the standing counsel was engaged in some other Court. Learned counsel appearing for the first respondent submitted that even on few of the earlier occasions, there was no representation for the appellant and that is the reason why the order has been passed. Further more, on merits also, there is nothing to adjudicate as the petition filed does not specify the ground of interference enunciated under Section 34 of the Arbitration and Conciliation Act, 1996.

3.The appellant is a statutory Corporation. It appears, on few of the occasions, there was sufficient appearance on behalf of the appellant. When the petition has been dismissed for non-appearance of the counsel, there is no need for going into the merits. Though the learned single Judge did not go into the merits substantially, except by stating that there is no ground for interference with the award as indicated under Section 34 of the Arbitration and Conciliation Act, we are of the view that the appellant deserves an opportunity to contest the matter on merit.

4.In such view of the matter, we are inclined to set aside the order of the learned single Judge. Accordingly, the Original Side Appeal is allowed and the matter stands remitted to the learned single Judge who is dealing with the concerned roster. We request the learned single Judge to dispose of O.P.No.371 of 2013 within a period of eight weeks. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-VI)

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Sub Assistant Registrar

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To

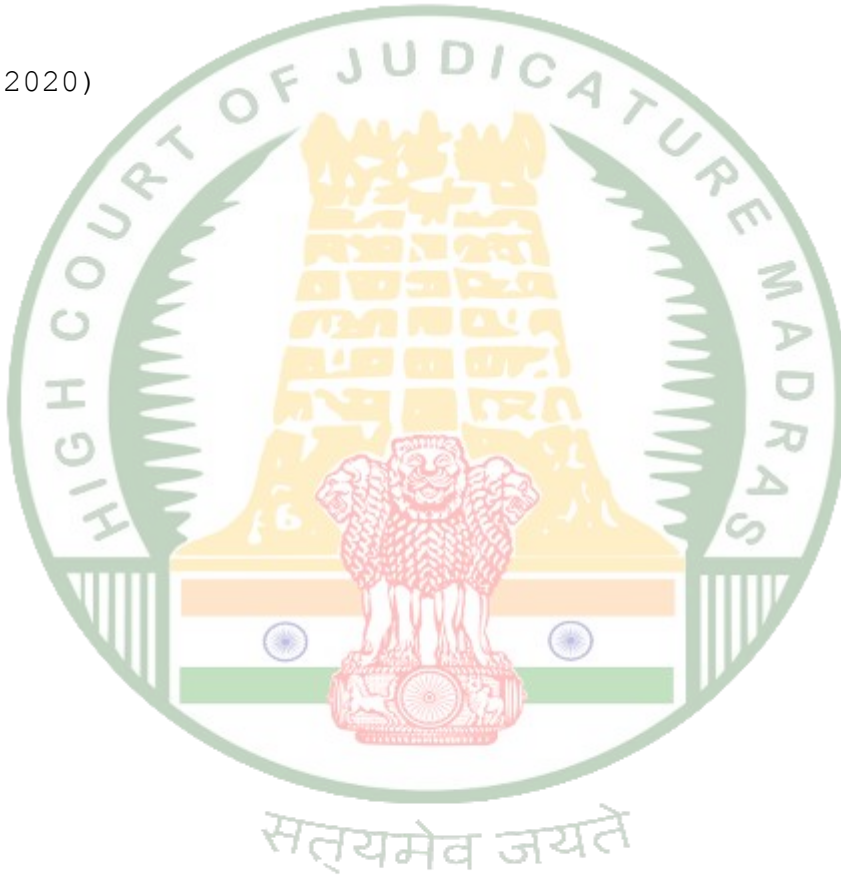
The Sub Assistant Registrar,
Original Side, High Court, Madras.

+1cc to Mr.M.Chidambaram, Advocate SR.No.105693

+1cc to Mr.C.Seethapathy, Advocate SR.No.105995

O.S.A.No.324 of 2019

VSN II (CO)
GMY (16/06/2020)



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