

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Civil Appellate Jurisdiction)

Thursday, the Twenty Eighth day of November Two Thousand Nineteen

PRESENT

THE HON`BLE MR JUSTICE R.SUBBIAH

AND

THE HON`BLE MRS JUSTICE T. KRISHNAVALLI

CMP NO.25360 OF 2019

IN OSA.198/2019

M/S.GOWPATT ASSOCIATES [PETITIONER]
REP BY ITS PROPRIETOR,
MR.P.ARUN KUMAR, 5/F1,1ST STREET,
GOPALAPURAM, CH-86.

Vs

THE SUPERINTENDING ENGINEER [RESPONDENT]
NATIONAL HIGHWAYS, SALEM CIRCLE,
OMALUR MAIN ROAD, NAROSITHIPATTY,
SALEM.

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to permit the petitioner to withdraw the sum of Rs.17,40,64,520/- lying to the credit of OSA No.198/2019 dated 30.09.2019 to deposit the award amount and thus render justice and pass such further or other orders as this Honble Court. (CMP.25360/2019)

Order : This petition coming on for orders upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of M/S.V.RAGHAVACHARI, Advocate for the petitioner and of MR.G.RAJAGOPALAN, SC FOR MR.SU.SRINIVASAN, Advocate for the Respondent the court made the following order:-

(Order of the Court was made by R. Subbiah, J)

The petitioner, who is the respondent in the above O.S.A. No. 198 of 2019, has come forward with this petition praying to permit him to withdraw the sum of Rs.17,40,64,520/- lying to the credit of O.S.A. No. 198 of 2019 dated 30.09.2019.

2. According to the Petitioner, they have filed a claim petition before the learned Arbitrator owing to a contractual dispute with the respondent herein. After adjudication, the learned Arbitrator has passed an award on 27.10.2017 in favour of the petitioner by directing the respondent to pay a sum of Rs.35,30,44,558/- with interest at the rate of 12% from the date of execution of work till 26.06.2014 and 18% interest from 27.06.2014 till realisation. Assailing the award passed by learned Arbitrator, two Original Petition Nos. 457 and 458 of 2018 have been filed and they were dismissed by the learned single Judge by a common order dated 02.04.2019. Challenging the said order dated 02.04.2019, the present Original Side Appeals were filed.

3. When the above appeals were taken up for hearing, this Court passed an order dated 30.09.2019 granting interim stay of operation of the common order dated 02.04.2019 passed in OP Nos. 456 and 457 of 2018 on condition the respondent herein deposit 50% of the award amount within a period of eight weeks from the date of receipt of the order. It is stated that the respondent herein has deposited a sum of Rs.17,40,64,520/- on 21.11.2019 and it is lying to the credit of the above Original Side Appeal No. 198 of 2019.

4. The learned counsel for the petitioner would contend that the sole arbitrator has passed an award in favour of the petitioner on 27.10.2017, which was also confirmed by the learned single Judge by dismissing the Original Petition Nos. 456 and 457 of 2018 on 02.04.2019. Therefore, pending disposal of the above appeal, if the amount deposited to the credit of O.S.A. No. 198 of 2019 is permitted to be withdrawn, no prejudice will be caused to the respondent.

5. The learned Additional Solicitor General appearing for the respondent opposed the application for withdrawal of the amount by contending that the Original Petitions were dismissed by the learned single Judge at the admission stage. He also would contend that there are valuable points raised in the above appeal for consideration by this Court and the respondent has fair chance of success in the appeal. He would also submit that if the appeals are listed for final hearing, he will be ready to get along with the case. At the same time, the learned Additional Solicitor General submitted that he has no objection for withdrawing 50% of the amount deposited before this Court.

6. We have heard the counsel for both sides. By order dated 30.09.2019, this Court directed the respondent to deposit 50% of the award amount within eight weeks. Pursuant to such direction, the respondent herein has deposited a sum of Rs.17,40,64,520/- on 21.11.2019. Taking note of the fact that the arbitrator has passed the award on 27.10.2017 which was also confirmed by the learned single Judge by dismissing OP Nos. 456 and 457 of 2018 on 02.04.2019, we feel that interest of justice will be met if the petitioner is permitted to withdraw a sum of Rs.13 crores out of

the sum of Rs.17,40,64,520/- deposited by the respondent.

7. Accordingly, this petition is ordered. Post the appeals for final hearing after two weeks.

-sd/-
28/11/2019
/ TRUE COPY /

Sub-Assistant Registrar (Statistics / C.S.)
High Court, Madras - 600 104.

TO

1 THE SUB ASSISTANT REGISTRAR
ORIGINAL SIDE, HIGH COURT, CHENNAI.

2 THE SECTION OFFICER,
ACCOUNTS SECTION, HIGH COURT, CHENNAI.

+ 2 C.C. to MR.V.RAGHAVACHARI Advocate SR.NO. 14196

Order
in
CMP.25360/2019
in
OSA.198/2019

Date :28/11/2019

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