

IN THE HIGH COURT OF JUDICATURE AT MADRAS**DATED: 28.01.2019****CORAM****THE HONOURABLE JUSTICE M.GOVINDARAJ****O.P. No.1002 of 2018**

M/s.CT.Ramanathan Infrastructure Pvt.Ltd.,
 Flat No.4/3, Second Floor,
 "S.K.Enclave"
 Old No:47, New No:4,
 Nowroji Road, Chetpet,
 Chennai – 600 031.

.. Petitioner

-VS-

1.The Union of India,
 Represented by the General Manager,
 Southern Railway, Park Town,
 Chennai – 600 003.

2.The Chief Engineer,
 Construction,
 Southern Railway,
 Periyar E.V.R.High Road,
 Egmore, Chennai – 600 008.

3.K.RaveendraBabu

4.S.Krishnamoorthy

.. Respondents

Prayer: Original Petition filed under Section 11 (6) of the Arbitration Conciliation Act, 1996, to terminate the mandate of the present Arbitral Tribunal (Comprising of the Third and Fourth Respondents) an independent Arbitrator to arbitrate all the disputes and claims arising out of the Agreement No:72/CN/08 dated 09.09.2008.

For Petitioner : Mr.R.Dhanaram

For Respondents : Mr.P.T.Ramkumar

ORDER

This Original Petition has been filed by the petitioner seeking to terminate the mandate of the present Arbitral Tribunal (Comprising of the Third and Fourth Respondents) an independent Arbitrator to arbitrate all the disputes and claims arising out of the Agreement No:72/CN/08 dated 09.09.2008.

2. The petitioner raises arbitral dispute with the respondents. Pursuant to which, an arbitral Tribunal was appointed on 05.05.2015. During the pendency of the Arbitration, the Presiding Arbitrator was transferred on 29.01.2016. Thereafter, new Arbitrator was appointed on 29.02.2016, while pendency of the arbitration, again another Arbitrator was transferred on 05.05.2017. Thereafter, the Arbitration proceedings could not be proceeded further and the Arbitral Tribunal did not meet till date.

3. Despite the request of the petitioner, the respondents have not appointed any Arbitrator and continued the arbitration proceedings. Thereafter, the petitioner approached this Court for appointment of an Arbitrator.

4. Considering the facts and circumstances of the case, it is clear

that the respondents have failed to appoint the Arbitrator to continue the

arbitral proceeding. In such event, the grievance of the petitioner is justified.

5. Thus, an independent Arbitrator as sought for, is appointed.

6. Accordingly, **Mr.K.Swamidurai, Retired High Court Justice, residing at Old No.22/1, (New No.14), VI Street, Sowrashra Nagar, Choolaimedu, Chennai -94 (Phone No.044-24848901)**, is appointed as Arbitrator to enter upon reference and adjudicate the disputes *inter se* the parties. The learned Arbitrator may, after issuing notice to the parties and upon hearing them, pass an award as expeditiously as possible, preferably within a period of six months from the date of receipt of copy of this order. The learned Arbitrator is at liberty to fix his remuneration and other incidental expenses. The proceedings may be conducted under the aegis of the Madras High Court Arbitration Centre and in accordance with the Madras High Court Arbitration Rules.

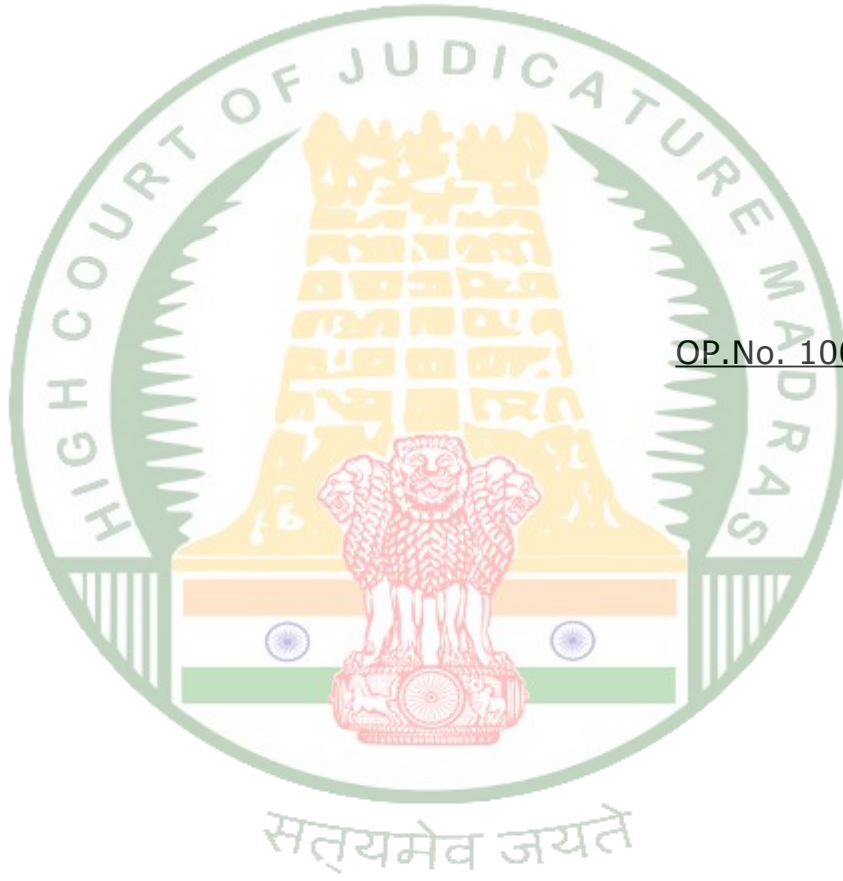
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7. The Original Petition is ordered in the aforesaid terms leaving the parties to bear their own costs.

28.01.2019

M.GOVINDARAJ, J.

bri



OP.No. 1002 of 2018

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