



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.08.2019

CORAM

WEB COPY

THE HON'BLE MRS.JUSTICE J.NISHA BANU

C.R.P. (MD) No.1284 of 2019

M/s.Nilakandan & Brothers Construction Pvt.Ltd.,
2.1st Floor, Gokul Towers, 7 CP Ramasawamy Road,
Chennai 600 018.

... Petitioner/
Petitioner/Petitioner

-Vs-

1.The Superintending Engineer
National Highways
Tirunelveli

2.The Divisional Engineer
National Highways Division-II
Madurai

...Respondents /
Respondents/Respondents

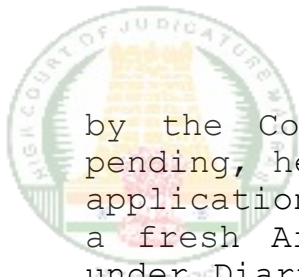
Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India to number I.A.No.D18563 of 2018 dated 20.07.2018 in Arb.O.P.No.9 of 1990 by reconstructing the bundle in Arb.O.P.No.9 of 1990 pending on the file of the Principal Subordinate Judge, Madurai.

For Petitioner : Mr.K.Prabhakar

O R D E R

This Civil Revision Petition has been filed to number the I.A.No.D18563 of 2018 dated 20.07.2018 in Arb.O.P.No.9 of 1990 by reconstructing the bundle in Arb.O.P.No.9 of 1990 pending on the file of the Principal Subordinate Judge, Madurai.

2.The learned counsel for the petitioner would submit that the petition in Arb.O.P.No.9 of 1990 was filed by the petitioner to refer the dispute between the petitioner company and the respondents to an Arbitrator and to appoint an Arbitrator. The said application was allowed by the learned Principal Subordinate Judge, Madurai and thereafter an Arbitrator was appointed by the learned Judge. The learned counsel would further submit that the Arbitrator appointed



by the Court did not enter reference and while the matter was pending, he passed away. Subsequent to that, the petitioner filed an application under Section 11 of the Arbitration Act, 1940 to appoint a fresh Arbitrator. The said application was filed on 20.07.2018 under Diary No.18563 of 2018 and the same was pending nearly a year without either being returned or numbered, citing unavailability of back bundle in Arb.O.P.No.9 of 1990. Hence, the petitioner has filed this Civil Revision Petition to number the I.A.No.D18563 of 2018.

3. I have heard the learned counsel appearing for the petitioner and perused the materials available on record.

4. Considering the facts and circumstances of the case and considering the fact that the application in Diary No.18563 of 2018 was filed on 20.07.2018, despite lapse of one year, no steps have been taken by the Court below to trace the bundle, this Court feels that ends of justice would be met by directing the Court below to trace the back bundle within a time frame and then number the said application and dispose the same within a time frame. Without adverting to the merits of the case, a direction is issued to the learned Principal Subordinate Judge, Madurai to either trace the back bundle or reconstruct the bundle in Arb.O.P.No.9 of 1990 and dispose the I.A.No.D18563 of 2018 dated 20.07.2018 in Arb.O.P.No.9 of 1990 on merits and in accordance with law within a period of twelve weeks from the date of receipt of a copy of this order.

5. With the above direction, this Civil Revision Petition is disposed of. No costs.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

To
The Principal Subordinate Judge
Madurai.

C.R.P. (MD) No.1284 of 2019
06.08.2019

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