

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.08.2020

CORAM :

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

Civil Miscellaneous Appeal Nos.455 & 456 of 2010 &
M.P.Nos.1 and 1 of 2010

M/s.Amar Nath Charanjilal Lal & Co.,
Represented by its Sole Proprietor,
Mr.Snajeev Khokha
Having Office at No.252-C, 1st Floor,
Sant Nagar, East of Kailash,
New Delhi - 110 065. Applicant/Claimant

versus

1. The Executive Engineer,
(Now redesigned as Assistant General
Manager/Engineering/Civil - IV),
Airport Authority of India,
Chennai Airport Project, Chennai - 600 027.
2. The Chief Engineer,
(Redisgned as Executive Director Engg.)
Office of Chief Engineer (Capital),
Airport Authority of India (IAD),
Operational Officers,
Rangpuri, Gurgeon Road,
New Delhi - 110 037. Respondents/Respondents

Prayer: These Civil Miscellaneous Appeals have been filed under section 37 (2) (b) of Arbitration and Conciliation Act, 1996 against the Order dated 20.11.2006 dated 05.12.2007 passed by the Sole Arbitrator Shri N.Krishnamoorthi in No.2(1) & 2(2) NKM ARBN on the file of Sole Arbitrator, Chennai under section 17 of Arbitration and Conciliation Act, 1996.

For Appellants : Mr.K.Harishankar

For respondents: Mr.S.Venkatesan

JUDGMENT

Challenging the Order of the learned Arbitrator rejecting the plea of the claimants to consider the additional claims, the present Civil Miscellaneous Appeals have been filed.

2. Originally, the dispute arose between the parties in respect of two construction contracts in the year

1998 which were in favour of the appellant. It appears that the works were completed in the year 2002 and various claims have been made by the appellant for various items and totally, 10 claims in each of the contract have been made. However, the appointing authority has referred only 5 claims and arbitrator was appointed on 18.07.2013. Thereafter, the appellant has filed claim application for adjudication of the entire claim namely 10 claims in each of the contract. However, the learned arbitrator has rejected the additional claims on the ground that since the appointing authority has not referred them, he has restricted his adjudication only to the five claims referred by the appointing authority. As against which, the present Civil Miscellaneous Appeals have been filed.

3. Heard the learned counsel appearing for the appellants and the learned counsel appearing for the respondents and perused the records.

4. Without going to the merits of the case, when this Court has posed a question as to the nature of the claim and the nature of the dispute, the learned counsel for the respondent submitted that the same arbitrator is there and the claim can be referred to the same arbitrator and time may be fixed for filing of counter and for taking decision.

5. Having regard to the above submissions, though various legal submissions have been raised in the appeal, as the respondents are now willing to refer the claim to the same arbitrator, all the legal submissions is left open to be decided before the arbitrator.

6. Though the arbitrator is appointed by the appointing authority, in view of the amendment in the Act, such appointment is not possible. This arbitrator has been appointed prior to the amendment by the appointing authority and both sides have no objection to refer this matter to the very same arbitrator.

7. Accordingly, the arbitrator, Mr. N.Krishnamoorthi, who has already been appointed, is called upon to enter reference in this matter and to decide all the claims after giving opportunity to both sides. It is also directed that the claimant shall file claim petition within one month from the date of receipt of a copy of this Order. Thereafter the respondent shall file counter within one month and thereafter, the evidence has to be completed within two months. After that the learned arbitrator shall dispose of the matter within three months. The learned arbitrator shall be entitled to fix his fee as per the schedule in respect of the additional claims.

8. With the above directions, these appeals are allowed. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

To

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New Delhi - 110 037.

+2 cc's to Mr.K.Harishankar,advocate,sr.28302, 28299

+2 cc's to Mr.S.Venkatesan, Advocate,sr.28589,28590

rld(co)
krd 2/11

C.M.A.Nos.455 & 456 of 2010

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