

THE HIGH COURT OF JUDICATURE AT MADRAS

CORAM:
THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

O.P.No.76 of 2020

Jai Bharathi Constructions
Represented by its Proprietor
E. Surender Reddy
H.No.8-12-28,Plot No.121,
Street No.8, Habsiguda
Hyderabad – 500007.

.. Petitioner

.Vs.

1. The General Manager
Southern Railway ,
Headquarters Office,
Park Town,
Chennai – 600003.
2. The Chief Signal and Telecommunication Engineer,
Construction Branch,
Southern Railway,
Office of the CAO, II Floor, New Building,
Periyar E.V.R. High Road,
Egmore, Chennai 600008.

3. The Deputy Chief Signal and Telecommunication Engineer,
Construction Branch,
Southern Railway,
Office of the CAO, II Floor, New Building,
Periyar E.V.R. High Road,
Egmore, Chennai 600008.

.. Respondents

Prayer: Petition filed under Section 11(6) of the Arbitration and Conciliation Act, 1996 to appoint an independent and impartial Arbitrator to hear and decide the disputes between the Petitioner and the Respondent arising out of the agreement No.SG/CN/MTP/213/1/89/TBM/CONT/Vol.II dated 20.12.2010

For Petitioner : Mr. P. Subba Reddy

For Respondents : Mr. Vijay Anand
Standing Counsel for Railways

ORDER

This Original Petition has been filed by the Petitioner to appoint an independent and impartial Arbitrator to hear and decide the disputes between the Petitioner and the Respondent arising out of the agreement No.SG/CN/MTP/213/1/89/TBM/CONT/Vol.II dated 20.12.2010.

2. It is the case of the Petitioner that he had entered into the contract with the Railways to the tune of Rs.2,55,66,530/- on 06.09.2010. The Petitioner was not able to complete the contract works within the original contract period but the same was completed only on 10.10.2015. The above delay is due to the latches on the part of the Respondent railways. Further the Respondent has also made the

payment of final bill amount only on 2.5.2019 i.e., nearly 43 months after the completion of all works under the contract. Therefore, the Petitioner has referred the Claims/Disputes vide Letter dater 5.6.2019 and 20.9.2019 and also issued Statutory Notice on 26.11.2019. Since the Railways has not appointed arbitrator till date, he filed this Original Petition.

3. Heard the learned counsel for the Respondent.

4. Admittedly, the dispute has been raised by the Petitioner, who is the contractor of the Railways. As per the General Conditions of Contract, the Arbitrator has not been appointed by the Railways despite the statutory notice.

5. In such a view of the matter, as per the General Conditions of Contract, this Court is inclined to refer the matter to the Arbitrator. This Court appoints Mr.C. Manickem, District Judge (retired) having residence at No.22, I Floor, Raj Enclave, Laxmi Nagar, VI Street, Jalladianpet, Medavakkam, Chennai 600100, Chennai – 600 040 will take over the charge as as the Sole Arbitrator to enter upon the reference and 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 the order. The learned Arbitrator is at liberty to fix the remuneration and other incidental expenses, which shall be borne by the parties equally.

6. The original petition is accordingly allowed, leaving the parties to bear their own costs.

04.03.2020

Index : Yes / No
Internet: Yes
Speaking/non speaking order
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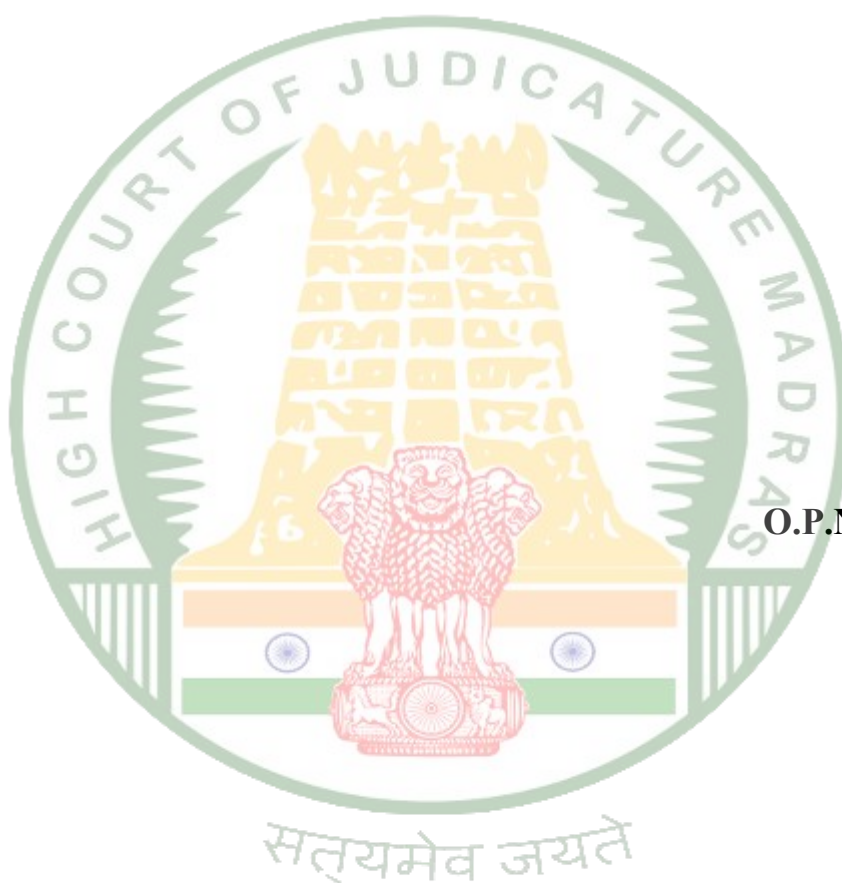
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N. SATHISH KUMAR, J.

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order in:
O.P.No.76 of 2020

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