

O.P.189 of 2020 and
A.No.852 of 2020

N. SATHISH KUMAR, J

This matter is listed today under the caption for 'being mentioned' at the instance of the learned counsel for the applicant.

2. The main contention of the learned counsel for the applicant is that in this matter award has been passed. Whereas, the Order indicate as if the award has not been passed. Therefore, the same has to be clarified.

3. It is to be noted that on the same day when this matter has been listed on 15.07.2020, this Court taking note of the fact that there are infirmities in the proceedings and after verifying has passed one Order in Item Nos. 69 and 80 to 95 another Order in item nos.70 to 79. While drafting, it appears that the Order passed in item Nos.70 to 79 has been typed in item Nos.69 and 80 to 95 and the Order passed in item Nos.69 and 80 to 95 has been typed in item Nos.70 to 79.

3. In view the same the Order of this Court in O.P.No.189 of 2020 and A.No.852 of 2020, dated 15.07.2020 shall be read as follows :

“When the matter is taken up today, the learned counsel appearing for the first respondent company has fairly submitted that as the Court had pointed out various infirmities in the proceedings of the arbitrator in other matters and as the very same arbitrator had dealt many number of cases of the first respondent company, they have no objection for appointing fresh arbitrator in this matter.

2. The learned counsels appearing for both sides have no objection for appointment of a fresh arbitrator, viz., Mr.S.Rajendrakumar, Advocate practicing in Madras High Court.

3. In view of the fact that as the arbitrator had dealt with many number of cases of the first respondent, as agreed by both sides, Mr.S.Rajendrakumar, residing at No.152, Thambuchetty Street, Chennai, Mobile No.9341700142, is

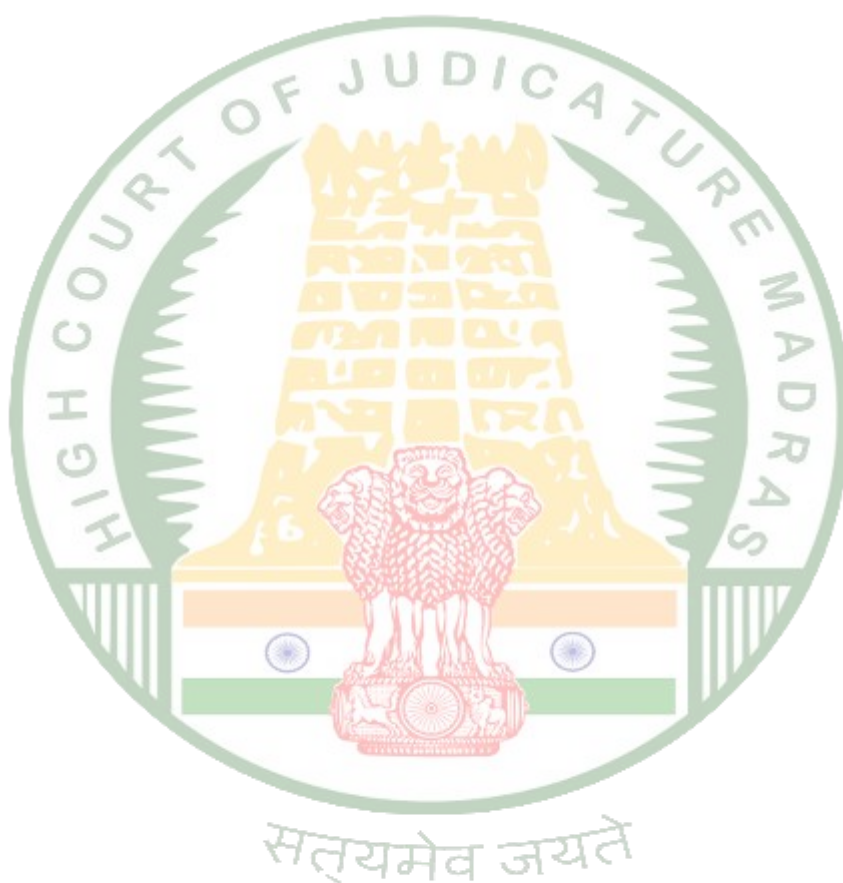
appointed as an arbitrator to enter upon the reference and conduct the proceedings afresh. The learned arbitrator shall disclose disclosure statement as mandated under law and conduct the proceedings after giving opportunity to both sides and complete the proceedings, within a period of six months from the date of receipt of copy of this order. The learned Arbitrator is at liberty to fix the remuneration and the same shall be borne by the respondent and other incidental expenses, shall be borne by the parties equally. Same shall be included in the costs.

4. In the Original Petition, this Court directed that the cost to be borne only by the respondent.

5. It is the contention of the respondent that the cost to be borne by both the parties. Be that as it may.

6. This Court after considering various infirmities and manipulation of records on the part of the respondent, such Order came to be passed. Therefore, the same need not be recalled. At any event, if the applicant succeeds in the

arbitration, the cost borne by them shall be included.



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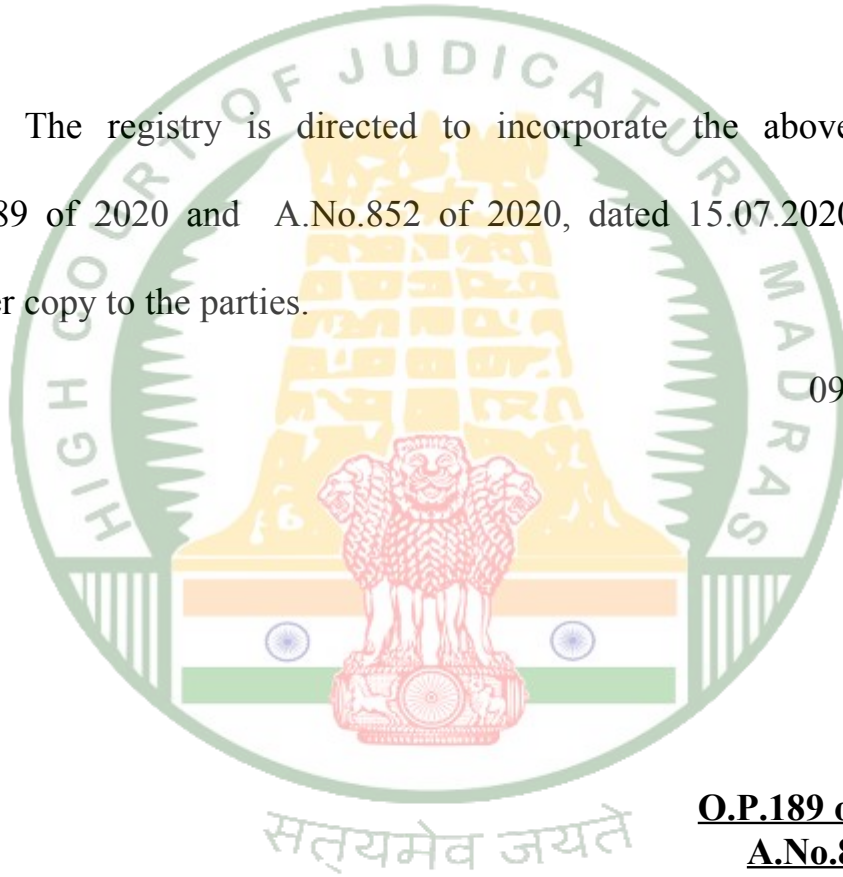
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7. Accordingly, the Original Petition is disposed of
and the connected application is closed.”

4. The registry is directed to incorporate the above Order in
O.P.No.189 of 2020 and A.No.852 of 2020, dated 15.07.2020 and issue
fresh order copy to the parties.

09.09.2020

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O.P.189 of 2020 and
A.No.852 of 2020

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.07.2020

CORAM

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

O.P.189 of 2020 and
A.No.852 of 2020

1. EMI Infrastructure Private Limited,
represented by its Finance Controller,
Mr.N.Biju Paul Samuel,
T-1, Cindiya Enclave, 144,
BharathMadha Street,
East Tambaram, Chennai 600 059.
2. Remina Chandrashekharan,
Aged about 44 years, w/o S.Chandrashekhar,
T-1 Cindiya Enclave, 144, Bharat Madha Street,
East Tambaram, Chennai 600 059. ... Petitioners

Vs.

1. Hinduja Leyland Finance Ltd.,
Represented by its Authorized Representative,
Mr.S.Nagarjan, No.1, Sardar patel Road,
Guindy, Chennai 600 032.
2. Mr.S.Samuel (Sole Arbitrator),
Office at No.7/2, Kondichetty Street,
1st Floor, Room No.116, Parrys,
Chennai 600 001. ... Respondents

Prayer: Petition filed under Section 14(2) of the Arbitration and Conciliation Act, 1996 to terminate the mandate of the 2nd respondent/Sole Arbitrator in HLF/EMI/2 of 2019 and substitute an independent and impartial sole arbitrator to adjudicate upon the disputes between the petitioner and the respondent arising out of the Arbitration Agreement bearing No.TNCHAN01584 dated 19.03.2019.

For Petitioners : M/s Sharath Chandran

For Respondents : Mr.V.Balasubramani

ORDER

When the matter is taken up today, the learned counsel appearing for the first respondent company has fairly submitted that as the Court had pointed out various infirmities in the proceedings of the arbitrator in other matters and as the very same arbitrator had dealt many number of cases of the first respondent company, they have no objection for appointing fresh arbitrator in these matters

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2. The learned counsels appearing for both sides have no objection for appointment of a fresh arbitrator, viz., Mr.S.Rajendrakumar,

Advocate practising in Madras High Court.

3. In view of the fact that as the arbitrator had dealt with many number of cases of the first respondent, as agreed by both sides, Mr.S.Rajendrakumar, residing at No.152, Thambuchetty Street, Chennai, Mobile No.9341700142, is appointed as an arbitrator to enter upon the reference and conduct the proceedings afresh. The learned arbitrator shall disclose disclosure statement as mandated under law and conduct the proceedings after giving opportunity to both sides and complete the proceedings, within a period of six months from the date of receipt of copy of this order. The learned Arbitrator is at liberty to fix the remuneration and other incidental expenses, which shall be borne by the respondent.

4. Accordingly, the Original Petition is disposed of and the connected application is closed.

15.07.2020

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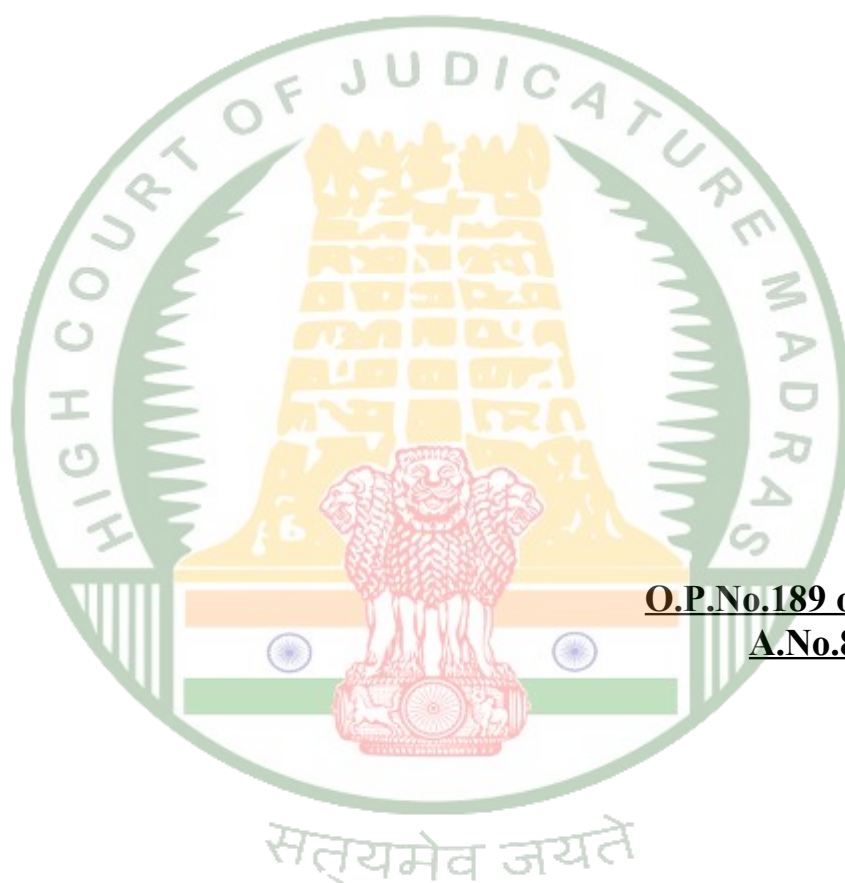
Index : Yes / No

Internet : Yes

Speaking Order/Non-Speaking Order.

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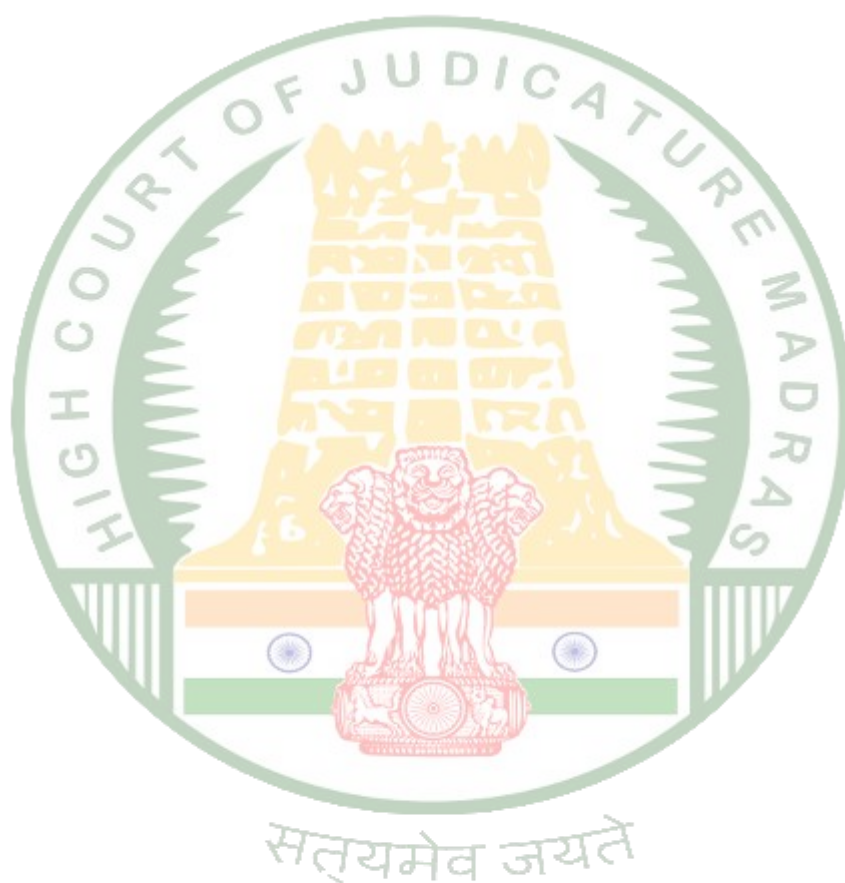
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