

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 24.07.2020

CORAM

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

O.P.No.277 of 2020

M/s T.K.Constructions
Civil Engineers & Contractors
rep by its Proprietor T.Kannappan,
Thanakodi Building, No.142,
Anna Salai, Puducherry 605 001. ... Petitioner

Vs.

1. The Chief Engineer,
Public Works Department,
Government of Puducherry,
Puducherry.
2. The Superintending Engineer Circle-II,
Public Works Department,
Government of Puducherry, Puducherry.
3. The Executive Engineer, Irrigation Division,
Public Works Department, Puducherry. ... Respondents

Prayer: Original Petition filed under Order Section 11(6) of the Arbitration and Conciliation Act, 1995 as amended by Act 2015 for appointment of independent sole Arbitrator to adjudicate upon the claims of the petitioner, as per the Arbitration Application dated 13.01.2020 submitted by the petitioner to the first respondent herein viz., the Chief Engineer, Public Works Department, Government of Puducherry as per the Agreement

No.102/PW/ID/A2/2014-16 dated 01.12.2014 and as per clause 25 of the General Conditions of the Contract for Public Works 1996 and as amended Act 2015.

For Petitioner : Mr. N.Thiagarajan

For Respondents : D.Ravichander

ORDER

The dispute is only with regard to the Contract. The contention of the learned counsel appearing for the petitioner is that he wrote letters to the Chief Engineers to appoint an Arbitrator to resolve the dispute, as per the provisions contemplated under the agreement, however, the Chief Engineer has not made any reply properly. Hence, the petitioner seeks appointment of an independent Arbitrator, probably a retired Chief Engineer of their own Department and their names are also been given in the affidavit.

2. The learned counsel appearing for the respondent submitted that since interim mechanism is provided in the contract, the petitioner has to first appeal to the Executive Engineer, then Superintendent Engineer and then Chief Engineer and thereafter only resorted the arbitration proceedings. But the petitioner has not availed such facility.

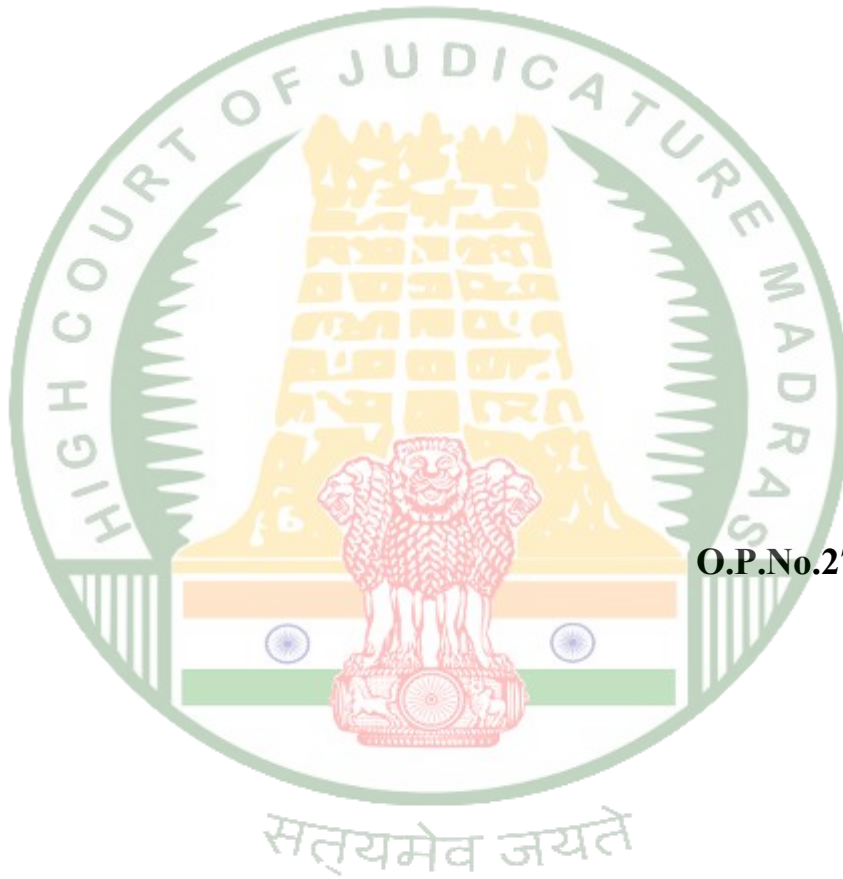
3. I have perused the entire materials on record. In fact, the petitioner has sent several letters to the Executive Engineer, Superintendent Engineer and Chief Engineer and then reminder letter also sent finally on 03.02.2020 to the Chief Engineer. Despite of those letters, no reply has been given by them.

4. In such view of the matter and since the parties are governed by the Contract to resolve the issue before the Arbitrator, this court is of the view that appointment of a Chartered Engineer, as Arbitrator is necessary to enter upon the reference and to conduct arbitration proceedings. Accordingly, the first respondent is directed to appoint a Chartered Engineer from the panel of their Department, as an Arbitrator, to enter the reference and conduct the proceedings. On such appointment, the Arbitrator shall conduct proceedings after giving notice and shall complete the proceedings within a period of 6 months. The remuneration of the Arbitrator shall be shared equally by the petitioner and the respondent. The venue of the arbitration proceedings shall be at Puducherry.

24.07.2020

N.SATHISH KUMAR, J.

mst



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