

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18/9/2020

C O R A M

THE HON'BLE MR.JUSTICE N.SATHISH KUMAR

Application No.2132 of 2018

Ind Barath Energy (Utkal) Limited
rep. By its Authorised Signatory
Mr.T.S.Das
Hyderabad 500 033.

Applicant

Vs

1. Tamil Nadu Generation and
Distribution Corporation Limited
No.144 Anna Salai
Chennai 600 002.

2. Punjab National Bank
No.27, I Floor, Raheja Towers
M.G.Road
Bangalore 560 001.

Respondents

Application filed under XIV Rule 8 of Original Side Rules, 1956

r/w. Section 9 (2) (e) of the Arbitration and Conciliation Act, 1996.

For applicant

...

Mr.Adarsh Subramanian

For respondents

...

Mr.Arvinth Pandian
Senior Counsel

for R.1.

ORDER

This application has been filed to direct the first respondent to deposit a sum of Rs.1,20,00,00,000/-, to the credit of this application being the money unjustly enriched by it from the fraudulent invocation of the Bank Guarantee No.22731LG012613 dated 25/7/2013 amended on 21/7/2014 given by the applicant to the first respondent, under the Agreement, dated 8/8/2013.

2. This Court, vide, order, dated 23/2/2018 directed that a status-quo be maintained in respect of the invocation of the bank guarantee dated 25/7/2013 amended on 21/7/2014 for a period of three weeks i.e, till 16/3/2018.

3. The main grievance of the applicant is that despite the order of this Court, restraining the Bank from encashing the bank guarantee, bank guarantee has been encashed. After encashing the bank guarantee, application filed for contempt has been closed. Vide, order,

dated 13/3/2018, this Court has directed the first respondent not to deal with Rs.120 crores, until further orders of this Court, except to place it in an interest bearing fixed deposit.

4. The grievance of the learned counsel for the applicant is that despite such an order has been passed, first respondent has not kept the money in the interest bearing deposit. Therefore, his contention that Court order has to be complied with. As the very contempt application is closed and held that Bank has not violated the orders of this Court, mere direction to keep the amount in a Fixed deposit has not arisen in this stage. Though Tamil Nadu Generation and Distribution Corporation Limited has not followed the orders of this Court, dated 13/3/2008, encashment is a matter to be decided in arbitration.

5. In such a view of the matter, no further order is required. In the event of the applicant succeeding in arbitration proceedings, the first respondent is liable to pay the interest as on 13/3/2018, on which date, the order was passed by this Court till 17/7/2020, on which date the original contempt application is closed. It is for the applicant to

A.No.2132 of 2018

N.SATHISH KUMAR,J

mvs.

work out the same before the Arbitral Tribunal in the event of they
succeed before the arbitral Tribunal.

6. With the above direction, instant Application is closed.

18/9/2020

mvs.

A.No.2132 of 2018



WEB COPY