

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.08.2020

CORAM :

THE HONOURABLE MR. JUSTICE N.SATHISH KUMAR

O.P.No.342 of 2020

M/s.Babuji Civil Constructions
Rep.by Proprietor C.Saravanan,
No.50/1, Bajanai Koil Street,
Mambalapattu,
Villupuram 602 309.

... Petitioner

Vs.

Cantonment Board
St.Thomas Mount & Pallavaram
Rep.by its Chief Executive Officer,
Chennai 600 016.

... Respondent

PRAYER: Petition filed under Section 11(6) of Arbitration and Conciliation Act, 1999 praying to appoint an arbitrator to decide the dispute between the petitioner and the respondent pursuant to the claim made by the petitioner in the letter dated 12.02.2020 arising under the Arbitration Agreement dated 29.06.2017.

For Petitioner : Mr.C.Mohan
for M/s.King & Patridge

For Respondent : M/s.V.V.Uthra

ORDER

This application has been filed for appointment of arbitrator to resolve the dispute emanated from the contract for maintenance and repairs to Drains and

Culverts awarded to the applicant in a contract agreement dated 29.06.2017.

2. It is the contention of the applicant that there is a dispute in respect of the above contract, particularly, with regard to the work that was carried out in a slow manner.

3. The learned counsel appearing for the respondent has filed a counter affidavit stating that there is no arbitration clause in the agreement as envisaged by the petitioner. Therefore, the independent arbitrator cannot be appointed.

4. Heard both sides.

5. When the notice of invocation for arbitration was sent to the respondent, the respondent has sent a reply dated 19.03.2020, wherein they have also intended to claim the counter claim in the dispute, when certain works have not been completed by the applicant. In such view of the matter, both sides have placed their claim against each other. This Court without going into the clause 22 of the Agreement, as to whether this issue falls under the above clause, the above issue is kept open and taking into the consideration of the reply of the respondent, this Court is of the view that an independent arbitrator can be appointed in this case. Accordingly,

Mr.R.Karthikeyan, Advocate, No.20 (39), Puram Prakasa Rao Road, Balaji Road, Roayapettah, Chennai 600 014. Mobile No.94440 17778 is appointed as an

independent arbitrator to enter reference and complete the above process within a period of six months from the date of receipt of the copy of this order. The fees shall be fixed by the Arbitrator. The fee shall be borne by both the parties equally. The respondent is also at liberty to claim the counter claim before the Arbitrator.

6. With the above observations, these Original Petitions are allowed.

24.08.2020

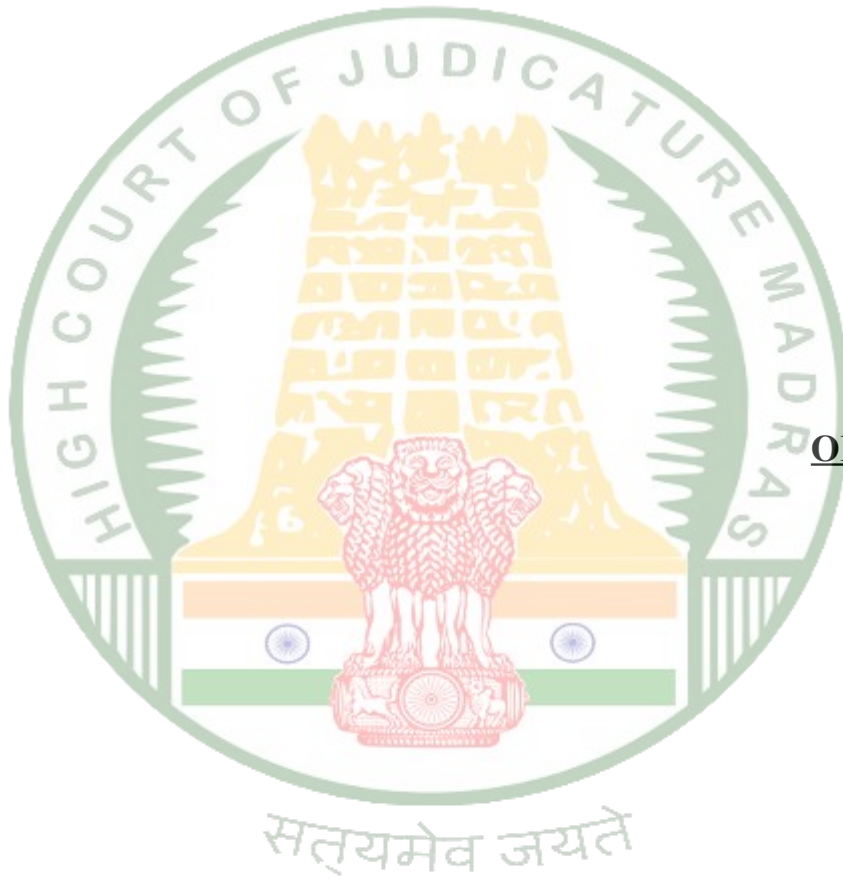
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Speaking order/Non speaking order
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N. SATHISH KUMAR, J.

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