

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.07.2020

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

A.Nos.2360 & 2361 of 2018
in OA.No.177 of 2018

Ind Barath Energy (Utkal) Limited
A Company registered under the
Companies Act, 1956
and having its registered office at
Plot No.30 A, Road No.1,
Film Nagar, Jubilee Hills,
Hyderabad 500 033.
Rep.by its authorised
signatory Mr.T.S.Das

. . . Applicant
in all applications

Versus

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

2. Punjab National Bank
No.27, 1st floor, Raheja Towers,
M.G.Road, Bangalore 560 001.

. . . Respondents
in all applications

PRAYER in A.No.2360 of 2018: Application filed under Order XIV Rule 8 of

original side rules r/w.SEC 39 Rule 2A of the Code of Civil Procedure, 1908 read with Section 9 of the Contempt of Court Act, to punish the respondents for the wilful violation of the order of this Court dated 23.02.2018 in OA.No.177 of 2018 and direct the first respondent to refund the sum of Rs.120,00,00,000/- (Rupees One hundred and Twenty Crores Only) received by it in contravention

of the order of this Court dated 23.02.2018 in OA.No.177 of 2018 by transferring the same to the second respondent.

PRAYER in A.No.2361 of 2018 : Application filed under Order XIV Rule 8 of original side rules r/w.SEC 39 Rule 2A of the Code of Civil Procedure, 1908 read with Section 9 of the Contempt of Court Act, to direct the 1st respondent to refund the sum of Rs.120,00,00,000/- received by it in contravention of the order of this Court dated 23.02.2018 in OA.No.177 of 2018 by transferring the same to the second respondent.

PRAYER in OA.No.177 of 2018: Application filed under order XIV Rule 8 of original side rules r/w Sec. 9(2)(e) of the Arbitration and Conciliation Act, 1996 to grant an interim injunction restraining the 1st respondent its men agent and any person acting on its behalf from invoking Bank Guarantee No.22731LGO12613 dated 25.07.2013 amended on 21.07.2014 given by the applicant to the first respondent under the agreement dated 08.08.2013 and consequently restrain the second respondent its men agent and any other person acting on its behalf from giving effect to the invocation of Bank Guarantee No.22731LGO12613 pending arbitrating proceedings.

For Applicant : Mr.Adarsh Subramanian
for M/s.Anirudh Krishnan
in all applications

For Respondents : Mr.Abdul Saleem for R1
Mr.Umasuthan for R2
in all applications

COMMON ORDER

These applications have been filed for violating the order passed by this

Court in OA.No.177 of 2018 dated 23.02.2018

2. The learned counsel for the applicant submitted that this Court vide order dated 23.02.2018 in O.A.No.177 of 2018 passed an order of status quo in respect of Bank Guarantee. Despite order passed by this Court on 23.02.2018 the second respondent Bank has released the payment to the first respondent. Whereas the learned counsel for the first respondent submitted that the process for releasing the Bank Guarantee was commenced at 10:10 a.m. on 23.02.2018. The order of this Court has been communicated only at later point of time. Before the Court passed an order the second respondent Bank released the payment. Affidavit has also been filed to that effect before this Court. This Court also directed the Bank to file necessary documents to show the time of commencing the process for releasing the Bank Guarantee. Now the statement has also been filed by the second respondent showing that the Bank has commenced the process for releasing the Bank Guarantee at 10:10 a.m. on 23.02.2018. On perusal of the same, the amount has been credited on the same date. A copy of the statement is also perused by this Court and it shows that what has stated in the affidavit appears to be correct and the records produced by the second respondent/Bank for releasing Bank Guarantee shows that Bank has released the payment in the morning whereas the interim order of this Court was obtained during the lunch hours on 23.02.2018. Therefore this Court does not find any act which amounts to contempt of the order of this Court. Accordingly these applications are closed.

3. In view of the same OA.No.177 of 2018 becomes infructuous, since the Bank guarantee encashed prior to the order of this Court, hence this application is closed.

Sd/.N.S.K.J
17.07.2020

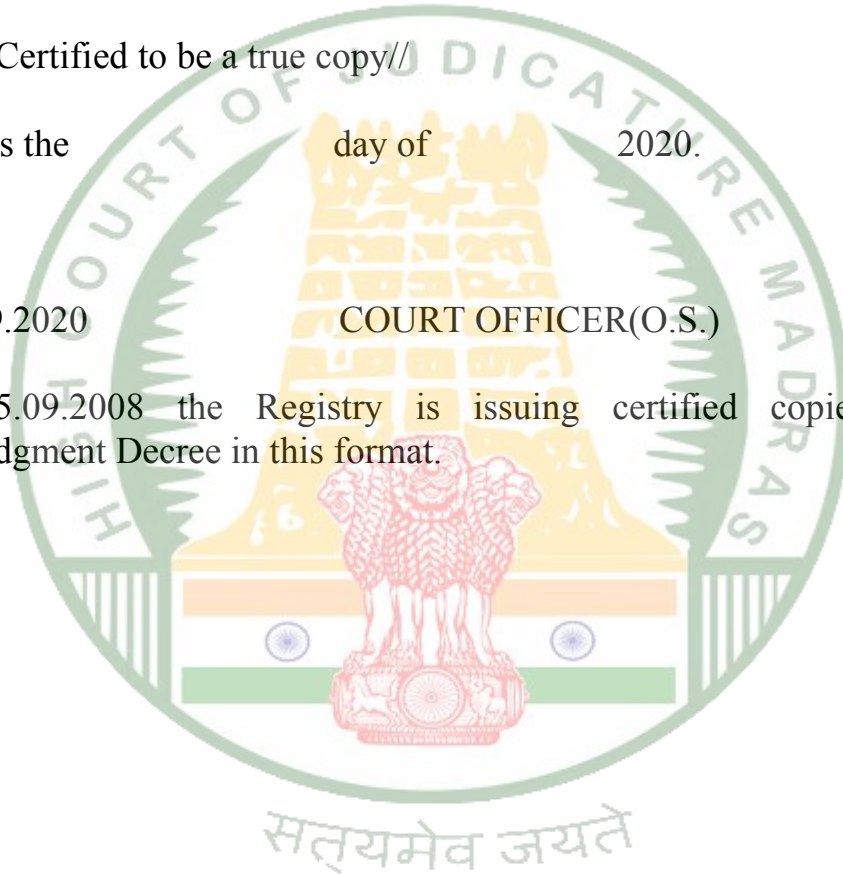
//Certified to be a true copy//

Dated this the day of 2020.

SU/10.09.2020

COURT OFFICER(O.S.)

From 25.09.2008 the Registry is issuing certified copies of the Order/Judgment Decree in this format.



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