IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.07.2020

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

OA.No.257 of 2020

Shriram EPC Limited
Rep.by
Sr.Vice President Legal & Secretarial
Mr.R.Sridharan
4th floor, Sigappi Aachi Building,
18/3, Rukmani Lakshmipathi Road,
Egmore,
Chennai 600 008. . . . Applicant

Versus

Valecha Engineering Limited
Valecha Chambers
4th floor, Plot No.B-6,
New Link Road,
Andheri (West), Mumbai 400 053 . . . Respondent

PRAYER: Original Application filed under Order XIV Rule 8 of original side rules r/w.SEC 9(ii)(d) and (e) of the Arbitration and Conciliation Act, 1996, to grant interim injunction restraining the respondent including its directors, employees or agents from interfering within any manner or disturbing the execution of the work by the applicant in terms of the agreement dated 16.02.2016 at site of NH 43 from Kanker to Bedma section in the State of Chhattisgarh and from de scoping the entire or any part of the work sub

WEB COPY

http://www.judis.nic.in

contracted to the applicant in terms of the agreement dated 16.02.2016 entered into between the applicant and the respondent pending initiation of arbitration proceedings against the respondent.

For Applicant : Mr.AR.L.Sundaresan
Senior Counsel for
Mr.V.Suresh

ORDER

This original application has been filed to grant an interim injunction restraining the respondent including its directors, employees or agents from interfering within any manner or disturbing the execution of the work by the applicant in terms of the agreement dated 16.02.2016 at site of NH 43 from Kanker to Bedma section in the State of Chhattisgarh and from de scoping the entire or any part of the work sub contracted to the applicant in terms of the agreement dated 16.02.2016 entered into between the applicant and the respondent pending initiation of arbitration proceedings against the respondent.

WEB COPY

2. The learned senior counsel appearing for the applicant submitted that the applicant is the sub contractor and the respondent was originally alloted the contract by the Ministry of Road Transport & Highways through Chhattisgarh PWD. The respondent, by letter dated 27.08.2019, sought

http://www.judis.nic.in

the permission to sub contract the work to the applicant. Thereafter, the same was approved by the National Highway Zone, PWD, Raipur by their order dated 22.11.2019. He further submitted that the applicant was entrusted with 70% of the work and the work consists of laying of roads. Only 2.25% payable to the respondent out of the receipts paid by the employer namely the Highways Department. The applicant has invested a sum of Rs.88 crores as of now and work has also been carried out substantially. At this stage the respondent has issued a notice threatening the applicant to cancel the Power of Attorney terminating sub contract. His further contention is that a tripartite agreement has also been entered into between the parties with regard to the initiation of work. The sub contract agreement entered into between the applicant and the respondent as per clause 24, makes it clear that, even there is a genuine dispute, the work shall be continued even during the proceedings before the Arbitrator. Under such circumstances, the respondent, now abruptly cannot cancel the work and it lacks impact not only on the investment made by the applicant and it will impair the work entrusted to the applicant. Hence he would submit that unless the respondent is restrained with an order of injunction the applicant will be put to great hardship. The applicant is also intend to invoke arbitration proceedings within a reasonable time.

3. Heard the learned senior counsel appearing for the applicant and

WEB COPY

http://www.judis.nic.in

perused the materials.

4. It is seen that originally a contract was awarded by the Ministry of Road Transport & Highways through Chattisgarh PWD (MORTH) to the respondent. It appears that on 16.02.2016 a sub contract agreement has been entered into between the applicant and the respondent and 70% of the work has been allotted to the applicant by the respondent. Such work has been allotted with the concurrence of the Highways Department, as could be seen from the letters dated 27.08.2019 and 22.11.2019 filed in the typed set of papers. In fact the respondent themselves have addressed a letter to approve the sub contract and direct payment to the applicant by their letter dated 27.08.2019, which was approved by the Highways Department by their letter dated 22.11.2019. Now it appears that there is a dispute arose between two parties. As per the contract, only 2.25% of the receipts is payable to the respondent. The clause agreed between the parties particularly clause 24 of the agreement dated 16.02.2016 makes it clear that even the dispute referred to arbitration, the work could not be stopped. In such view of the matter, this Court is of the view that the applicant has made out a prima facie case and in the event of work being terminated there will be injury since substantial investment is being made.

WEB COPY

http://www.judis.nic.in

4. Having regard to the above facts, there shall be an order of interim injunction till 07.08.2020 and the applicant shall comply with the order 39 rule 1 and 2 C.P.C by then. The applicant shall make efforts to initiate arbitration proceedings within a reasonable time.

5. Notice to the respondent, returnable by 07.08.2020. Private notice is also permitted. The applicant is permitted to serve notice to the respondent through e-mail.

6. Post on 07.08.2020.

17.07.2020

(2/2)

Index : Yes/No
Internet : Yes/No
Speaking/Non Speaking
dpq

WEB COPY

http://www.judis.nic.in

N.SATHISH KUMAR,J.

dpq

HIGH COURT OF JUDICATURE MADRAS
सत्यमेव जयते
WEB COPY

O.A.No.257 of 2020

(1/2)

17.07.2020

http://www.judis.nic.in