

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

MONDAY, THE 16TH DAY OF MARCH 2020

THE HON'BLE MR. JUSTICE N.SATHISH KUMAR

O.A.Nos 741 and 742 of 2019

IN THE MATTER OF THE
ARBITRATION AND
CONCILIATION
ACT, 1996
AND
IN THE MATTER OF DISPUTE
BETWEEN M/S.MARS
CONSTRUCTION
AND THE SOUTHERN
RAILWAYS RELATING TO
PROPOSED EARTH WORK IN
FORMING BANK USING
RAILWAYS CUT SPOIL AND
EARTH FROM RAILWAY'S
LAND FOR THE PROPOSED
THIRD LINE BETWEEN
TAMBARAM AND
CHENGALPATTU STATIONS
AND ARISING OUT OF THE
ARBITRATION AGREEMENT
CONTAINED IN THE WORKS
CONTRACT AGREEMENT
DATED 25.02.2019 ENTERED
INTO BETWEEN THE PARTIES.

M/S.MARS CONSTRUCTION,
REP.BY ITS PARTNER,
T.N.MOHAMMED RAAFI,
HIG 2253 TNHB, AVADI,
CHENNAI - 600 054.

..CLAIMANT/APPLICANT/APPLICANT
IN BOTH APPLICATIONS

-VS-

THE SOUTHERN RAILWAYS
REP.BY DY.CHIEF ENGINEER (CONSTRUCTION),
TAMBARAM,
CHENNAI-600 045.

..RESPONDENT/RESPONDENT
IN BOTH APPLICATIONS

O.A.No.741 of 2019:

Original Application praying that this Hon'ble Court be pleased to grant an order of ad-interim injunction restraining the Respondent from in any way realising or encashing the Security Deposit of Rs.6,10,245/- maintained in Fixed Deposit in Indian Overseas Bank, Avadi Branch with Deposit Receipt No.2014/NDRS/0961757 dated 07/01/2019 pending arbitral proceedings.

O.A.No.742 of 2019:

Original Application praying that this Hon'ble Court be pleased to order of ad interim injunction restraining the Respondent from in any way initiating any action against the Applicant as provided unde clause 17 or clause 62 of the General Conditions of the Contract incorporated into the Agreement dated 25/02/2019 between the Applicant and the Respondent pending arbitral proceedings.

These Original Applications coming on this day before this court for hearing the court made the following order:

These applications are filed under Section 9(1) of the Arbitration and Conciliation Act, 1996 restraining the respondent from in any way initiating any action against the applicant under Clause 17 or Clause 62 of the General Conditions of the Contract incorporated in the agreement dated 25.02.2019, and also restraining the respondent from in any way realising or encashing the security deposit of Rs.6,10,245/- maintained in Fixed Deposit in Indian Overseas Bank, pending arbitral proceedings.

2. Heard both sides.

3. These applications are filed mainly on the basis of the agreement dated 25.02.2019 in respect of awarding work contract between the applicant and the Southern Railway viz., respondent. The Contract clearly shows that the work contract of award is dated 04.01.2019 and the date of completion is 03.09.2019. As the contract itself is over by efflux of time, the question of termination does not arise at all. Such view of the matter, the interim order sought to restrain the respondent from initiating any action under Clause 17 and Clause 62 of the General Conditions of the Contract does not arise at all. Since the contract has not been terminated

and over by the efflux of time, the question of termination and initiating action does not arise. Therefore, the interim relief sought by the applicant is not maintainable. Similarly, since the dispute arise between the parties, it is for the applicant to work out his remedy before the Arbitrator.

4. It is the contention of the learned counsel appearing for the applicant that they have already sent a notice dated 12.07.2019.

5. Such a view of the matter, it is made clear that till the conclusion of arbitration proceedings, the security deposit lying with the respondent shall be kept in a Nationalised Bank.

6. With the above observations, these applications are dismissed. No costs.

Sd/.N.S.K.J.
16.03.2020

//Certified to be a true copy//

Dated this the day of 2020.

SU/16.04.2020

COURT OFFICER(O.S.)