

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.03.2021

CORAM

THE HONOURABLE MR. JUSTICE P.RAJAMANICKAM

O.P.Nos.95 and 96 of 2021

IL & FS Tamil Nadu Power Company Limited
4th Floor, KPR Tower,
Old No.21, New No.2,
1st Street, Subba Rao Avenue,
College Road, Chennai – 600 006. Petitioner in both OPs.

Vs.

M/s.Larsen & Toubro Limited,
Thermal Power Plant Construction
Mount Poonamallee Road,
Post Box No.979, Manapakkam,
Chennai 600 089. Respondent in both OPs.

Common Prayer : Original Petitions filed under Section 11(5) &
11(6) of the Arbitration and Conciliation Act, 1996 r/w Clause 2 of the

Appointment of Arbitrators by the Chief Justice of Madras High Court Scheme, 1996;

(a) appoint an Arbitrator, in terms of Clause 4.12 of the First Agreement dated 15.03.2014;

(b) direct the respondent to pay costs of this petition to the petitioner;

For Petitioner in
both OPs. : Mr.Menon

For Respondent
in both OPs. : Mr.Anirudh Krishnan

COMMON ORDER

These applications have been filed under Sections 11(5) and 11(6) of the Arbitration and Conciliation Act, 1996 to appoint an Arbitrator to adjudicate the disputes arose between the petitioner and the respondent.

2. The learned counsel for the petitioner has submitted that the petitioner herein has filed a suit in CS.No.98 of 2020 on the file of this Court for recovery of Rs.1,62,09,428/-(Rupees One Crore Sixty-Two Lakhs Nine Thousand Four Hundred and Twenty Eight Only) with subsequent interest. He further submitted that in the said suit, the respondent entered appearance and filed an application under Section 8 of the said Act stating that there was an Arbitration agreement and hence, the matter may be referred to Arbitration. He further submitted that the said application was allowed on 21.12.2020 and in pursuance of the said order, the petitioner has filed these applications.

3. The learned counsel for the respondent has submitted that the respondent is not filing counter. However, the respondent has raised objection with regard to limitation and jurisdiction of the Arbitrator. He further submitted that the said issue can be decided by

the Arbitrator himself in view of Section 16 of the said Act and therefore, an Arbitrator may be appointed.

4. Considering the aforesaid submissions, these applications are allowed. No costs. The Hon'ble Mr. Justice K. Kannan, residing at No.3/old No.11, Lakshmi Colony North Crescent Road, T.Nagar, Chennai – 600 017, Tamil Nadu, Mobile No-4428154145, Email Id-Kannan@madhyastham.com, is appointed as sole Arbitrator to enter upon reference and adjudicate the disputes *inter se* the parties. The learned Arbitrator may, after issuing notice to the parties and upon hearing them, pass an award as expeditiously as possible, preferably within a period of six months from the date of receipt of the order. It is open to the respondent to raise all legal objections including the limitation and jurisdiction. The learned Arbitrator is at liberty to fix his remuneration and other incidental expenses as per law. The proceedings may be conducted under the aegis of the Madras High

Court Arbitration Centre and in accordance with the Madras High Court Arbitration Rules.

29.03.2021

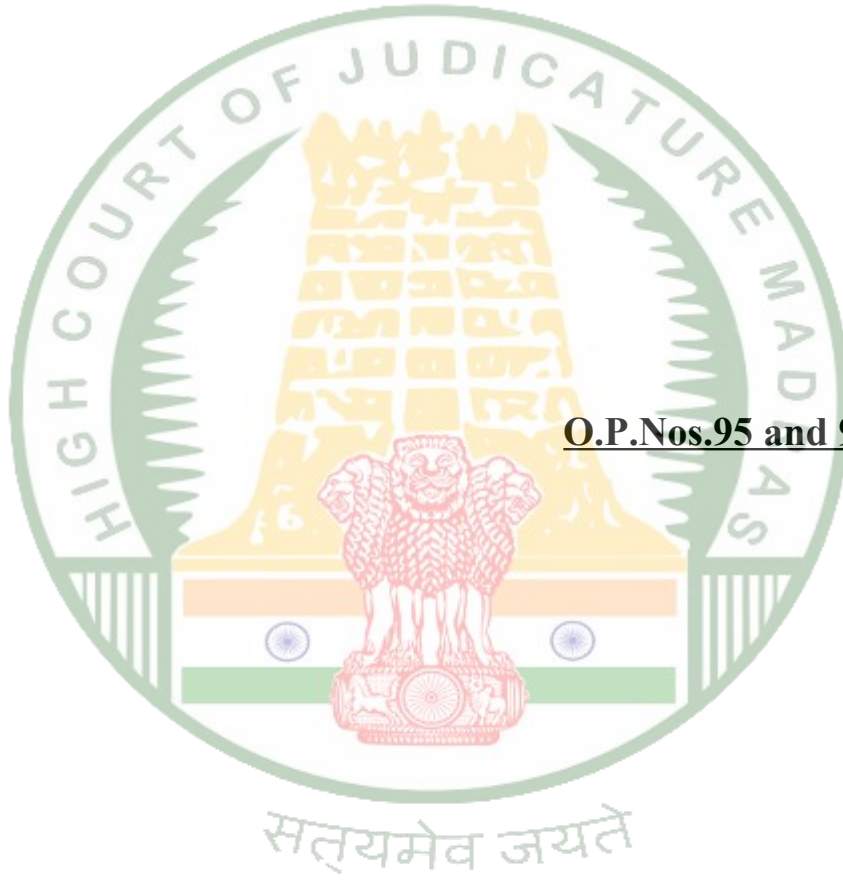
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P.RAJAMANICKAM, J.
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