

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.03.2021

CORAM :

THE HONOURABLE Ms.JUSTICE P.T. ASHA

Original Petition.No.173 of 2021

M/s.Unique Builders,
Rep by its Partner,
Mr.N.Sreenivasan
S/o.Mr.P.Nallasamy,
No.1369, V Street,
Golden Colony,
Padi, Chennai 600 050

Also having
Registered Office at
No.36, D.N.Plaza, 2nd Floor,
Thiruvalluvar Salai, Thiruvalluvar Nagar,
Mugappair East, Chennai 600 037 ... Petitioner

versus

1. The Union of India,
Represented by the General Manager,
Southern Railway, Headquarters Office,
Park Town, Chennai 600 003.

2. The Divisional Officer,
DEN/SW/TVC,
Thiruvananthapuram Divisional Engineering,
Works Branch Divisional Office,
Southern Railway, Thycaud,
Thiruvananthapuram 695 014 ... Respondents

Prayer: Original Petition filed under Section 11(6) of the Arbitration and Conciliation Act, 1996, (a) to appoint an independent and impartial arbitrator to hear and decide the disputes between the petitioner and the respondents arising out of the agreement No.32/TVS/2020 dated 13.02.2020 as set out under details of claims in para No.10 above and (b)) Direct the respondents to pay the costs of this petition.

For Petitioner : Ms.K.Aparna Devi

For Respondents : Mr.P.T.Ramkumar

ORDER

Disputes have arisen between the petitioner and the respondents in respect of the Agreement No.32/TVS/2020 dated 13.02.2020. The petitioner had invoked the arbitration clause, vide their letter dated 10.12.2020. As per the terms of the agreement, the respondents ought to have appointed their Arbitrator within 60 days i.e. on or before 09.02.2021. However, the respondents, instead of appointing the Arbitrator, had tried to negotiate the settlement between the parties and have sent a letter dated 16.12.2020 calling upon the petitioner to appear before them on 30.12.2020 for discussions. However, the petitioner had not attended the meeting. Ultimately, it was only on 25.02.2021 that a letter has been forwarded to the

petitioner giving the names of four retired Officers. The petitioner's counsel would submit that her client to date had not received this letter and only a copy of this letter has been served on her by the learned counsel for the respondents.

2. Be that as it may, considering the fact that the respondents have not made arrangements within a period of 60 days, as provided in the agreement, they have abdicated their right to appoint an Arbitrator.

3. Consequently, Mr.S.Parthasarathy, Senior Advocate, residing at No.7, II Street, Jagadambal Colony, Royapettah, Chennai 600 014, Contact No.9176637537, E-Mail I.D: spkandadai@gmail.com, is appointed as an Arbitrator to enter upon reference and adjudicate the disputes *inter se* the parties.

i) 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 as to the validity of contract.

ii) The learned Arbitrator is at liberty to fix his remuneration and other incidental expenses as per law.

iii) 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.

4. The Original Petition is, accordingly, allowed, leaving the parties to bear their own costs.

29.03.2021

Speaking Order / Non-speaking Order

Index : Yes / No

Internet : Yes

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P.T. ASHA, J.

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