



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.09.2021

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

C.R.P.NOS.2078 & 2079 OF 2016

AND

C.M.P.NOS.10876 & 10877 OF 2016

C.R.P.No.2078 of 2016

M/s.Larsen and Toubro Limited,
Mount Poonamallee Road,
Manapakkam, P.B.No.979,
Chennai - 600 089.

.. Petitioner

Vs.

1. NLC India Ltd.,
Reg. Off. I Floor,
No.8, Mayor Sathyamorthy Road,
FSD, Egmore Complex of Food
Corporation of India, Chetpet,
Chennai - 600 031.

2. Mr.Justice Shivraj V. Patil

3. Mr.Justice B.P.Jeevan Reddy

4. Mrs.Justice Usha Mehra
(Cause title amended vide Order of this
Court dated 09.11.2016 made in
C.M.P.No.17777 of 2016) in CRP 2078 of 2016

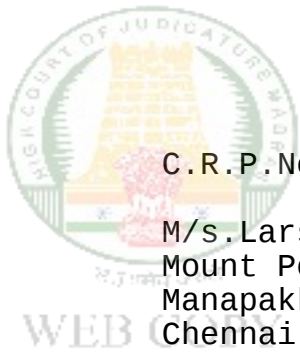
.. Respondents

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India to reject the Arb.O.P.No.63 of 2016 on the file of the learned District and Sessions Judge, Cuddalore.

For Petitioner : Mr.Anirudh Krishnan

For Respondent 1 : Mr.N.Nithianandam

For Respondents 2 to 4 : No appearance



C.R.P.No.2079 of 2016

M/s.Larsen and Toubro Limited,
Mount Poonamallee Road,
Manapakkam, P.B.No.979,
Chennai - 600 089.

.. Petitioner

Vs.

1. Neyveli Lignite Corporation Ltd.,
Corporate Office, Block No.1,
Neyveli - 607 801.
2. IDBI Bank,
Trade Finance Department,
No.7, Sough Boag Road,
T.Nagar, Chennai - 600 017.

.. Respondents

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India to reject the Arb.O.P.No.89 of 2016 on the file of the learned District and Sessions Judge, Cuddalore.

For Petitioner : Mr.Anirudh Krishnan

For Respondent 1 : Mr.N.Nithianandam

For Respondent 2 : No appearance

COMMON ORDER

(The case has been heard through video conference)

Since the issue involved in both the Civil Revision Petitions are same, submissions being common, they are taken up together and disposed of by means of this common order.

2. These Civil Revision Petitions have been filed under Article 227 of the Constitution of India challenging I.A.No.3920 of 2016 in Arb.O.P.No.89 of 2016 filed by the first respondent under Section 9 of the Arbitration and Conciliation Act, 1996 against the petitioner seeking for renewal of the Bank Guarantee as well as challenging the filing of Arb.O.P.No.63 of 2016 by the first respondent under Section 34 of the Arbitration and Conciliation Act before the learned Principal District and Sessions Judge, Cuddalore.



3. The petitioner has challenged the aforesaid proceedings on the following grounds:

(a) Since the petitioner filed an application before the Original Side of this Court under Section 9 of the Arbitration and Conciliation Act, 1996 (hereinafter referred to the 'Act') against the first respondent, in O.A.No.379 of 2013, only the Original Side of the Madras High Court can exercise any further applications under the Act pertaining to the subject dispute as per Section 42 of the Act. Therefore, according to the petitioner, by total non-application of mind and statutory provisions as well as the settled position of law, the learned Principal District and Sessions Judge, Cuddalore has entertained the applications filed by the first respondent under Section 9 and Section 34 of the Act.

(b) Further, according to the petitioner, the seat of Arbitration is only at Chennai since the Arbitration between the parties was conducted only at Chennai and Arbitral Award was also passed only at Chennai.

4. However, it is the case of the first respondent that the application under Section 9 of the Act in O.A.No.379 of 2013 filed by the petitioner was entertained by this Court without jurisdiction. It is also their case that they have not filed their counter in the said application. Therefore, according to the first respondent Section 42 of the Act does not get attracted and hence, it is their case that the learned Principal District and Sessions Judge, Cuddalore has correctly entertained the applications filed by the first respondent under Section 34 as well as under Section 9 of the Act.

5. Further, it is also the case of the first respondent that the seat of arbitration has been specifically mentioned in the contract between the parties as Neyveli and hence according to the first respondent, the learned Principal District and Sessions Judge, Cuddalore has rightly entertained the applications filed by the first respondent under Section 34 as well as Section 9 of the Act.

6. As seen from the allegations and counter allegations made by the respective parties, there are debatable issues of law involved, which has to be decided after hearing at length. The purpose of arbitration is for expeditious disposal of disputes between the parties.

7. Admittedly, there are now two parallel proceedings one filed by the first respondent under Section 34 as well as under Section 9 of the Act before the learned Principal District and Sessions Judge, Cuddalore and the other which is the subject matter of these CRPs filed by the petitioner under Article 227



of the Constitution of India challenging the proceedings initiated before the learned Principal District and Sessions Judge, Cuddalore. If this Court decides these CRPs on merits, there is possibility, any party aggrieved by the said outcome may challenge the same before the Apex Court. If that is allowed to happen, the very purpose of Arbitration will get defeated and it will result in delay of the disposal of the arbitral dispute. Both the learned counsel have fairly not raised any serious objections for this Court to transfer the proceedings initiated by the first respondent before the learned Principal District and Sessions Judge, Cuddalore in I.A.No.3920 of 2016 in Arb.O.P.No.89 of 2016 and also in Arb.O.P.No.63 of 2016, to this Court, so that, the dispute between the parties can be resolved expeditiously. No prejudice will be caused to any of the parties if the aforementioned proceedings are transferred to the file of the Original Side of this Court dealing with Arbitration matters. Already this Court finds that the C.R.Ps have been kept pending for almost five years. It is settled law that there must be minimal intervention by the Courts with regard to arbitral proceedings. Unless and until the power of intervention by a Court is provided under the Statute, normally the Court will not intervene.

8. After giving due consideration to the aforementioned factors, this Court directs withdrawal of Arb.O.P.No.89 of 2016 and Arb.O.P.No.63 of 2016 from the file of the learned Principal District and Sessions Judge, Cuddalore and transfer the same to the file of the Original Side of this Court dealing with Arbitration matters. Section 24 of the Civil Procedure Code also permits this Court to transfer suo motu any proceedings pending on the file of any Court subordinate to it. The learned Principal District and Sessions Judge, Cuddalore, is directed to transmit the papers to the file of the Original Side of this Court dealing with Arbitration matters. With the aforesaid direction, these civil revision petitions are disposed of. Consequently, the connected miscellaneous petitions are closed. No costs.

Sd/-
Assistant Registrar(CS-II)

// True Copy //

Sub Assistant Registrar

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To

1. The Principal District and Sessions Judge,
Cuddalore.



2. The Registrar (Judicial),
Madras High Court.

3. The Sub Assistant Registrar,
Original Side,
High Court, Madras.

+2ccs to Mr.Anirudh Krishnan, Advocate, S.R.No.45706

+1cc to Mr.N.Nithianandam, Advocate, S.R.No.45399

C.R.P.Nos.2078 & 2079 of 2016
and C.M.P.Nos.10876 & 10877 of 2016

GMR(CO)
RLP(06/10/2021)