



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

WEDNESDAY, THE 14th DAY OF JULY 2021

THE HON'BLE MR. JUSTICE N.SATHISH KUMAR

O.A. No.260 of 2021

In the matter of Arbitration and
Conciliation Act, 1996

and

In the matter of Arbitration of
dispute between M/s.RDC
Concrete (India) Private Limited
and HDFC Bank Limited &
Another under PO bearing Ref.
No.3100033472 dated 22.05.2019

M/s.RDC Concrete (India) Private Limited,
having its registered office at DIL Complex,
701, 7th Floor, Thane One, Ghodbunder Road,
Majiwade, Thane, Maharashtra-400 610.

... Applicant

-Versus-

1. M/s.HDFC Bank Limited,
having its branch office at Saurabh CHS,
Ground Floor, Off Service Road, Eastern Express Highway,
Near Modi Hyundai Showroom,
Panchpakhadi, Thane (W)-400 602,
Maharashtra.

2. M/s.BGR Energy Systems Limited,
having its office at 443, Anna Salai,
Teynampet, Chennai-600 018.

... Respondents

Original Application praying that this Hon'ble Court be pleased to

pass an order of Interim Injunction restraining Respondent No.2 or any



person or persons claiming through or under them from invoking and encashing the bank guarantee bearing reference No.240GT02193060009 and 240GT02193060010 respectively dated 2 November 2019 for a sum of Rs.40,00,000/- and Rs.40,67,487/- as issued by Respondent No.1 Bank in favour of Respondent No.2 on behalf of the Applicant.

This original application coming on this day before this court for hearing in the presence of Mr.M.Aravind Subramaniam, Advocate for the Applicant herein, and Mr.C.Mohan for M/s. King & Patridge, Advocates for the 1st respondent herein and Mr.Rahul Balaji, Advocate for the 2nd respondent herein and upon reading the order herein dated 18.06.2021, and the learned counsel for the 1st respondent having submitted that bank guarantee has been extended pursuant to the order of this court dated 18.06.2021, since the bank guarantee has been extended, the invocation of the bank guarantee did not arise, and in such view of the matter, the petitioner shall keep the bank guarantee alive till the arbitration proceedings gets over, it is ordered as follows:-

That Mr.Yashod Vardhan, Senior Counsel, residing at New No.21, 7th Main road, RA Puram, Chennai – 600 028 Mobile No.9841075397, be and is hereby appointed as a Sole Arbitrator to enter upon reference



ii] That the learned Arbitrator appointed herein, shall 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.

iii] That the learned Sole Arbitrator appointed herein shall fix his fees and other incidental charges and the same shall be borne by the parties equally.

iv) That both parties hereto, shall bear their own costs.

WITNESS THE HON'BLE MR. JUSTICE SANJIB BANERJEE,
CHIEF JUSTICE, HIGH COURT AT MADRAS AFORESAID, THIS
THE 14th DAY OF JULY 2021.

Sd./-
ASSISTANT REGISTRAR (Comm. Cases)

//Certified to be true copy//
Dated at Madras this the day of 2021.

COURT OFFICER(O.S.)
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O.A. No.260 of 2021

ORDER

DATED : 14.07.2021

THE HON'BLE MR. JUSTICE
N.SATHISHKUMAR

FOR APPROVAL: 26.07.2021

APPROVED ON : 26.07.2021

Copy to:

Mr.Yashod Vardhan,
Senior Counsel,
Sole Arbitrator
residing at New No.21,
7th Main road, RA Puram,
Chennai – 600 028.

Mobile No.9841075397



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THE HIGH COURT OF JUDICATURE AT MADRAS

Date 14.07.2021

CORAM:

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

O.A.No.260 of 2021

M/s.RDC Concrete [India] Private Limited,
Having registered Office at DIL Complex,
701, 7th Floor, Thane One, Ghodbunder Road,
Majiwade, Thane, Maharashtra – 400 610.
Petitioner

...

Versus

1. M/s.HDFC Bank Limited,
Having its branch Office at : Saurabh CHS,
Ground Floor, Off Service Road,
Eastern Express Highway,
Near Modi Hyundai Showroom,
Panchpakhadi, Thane [W] – 400 602, Maharashtra.

2. M/s.BGR Energy Systems Limited,
Having its Office at 443, Anna Salai,
Teynampet, Chennai – 600 018.

...

Respondents

PRAYER : Petition filed under Order XIV Rule 8 of OS Rules read with Section 9 of Arbitration and Conciliation Act, 1996 to pass an Order of interim injunction restraining respondent No.2 or any person or persons claiming through or under them from invoking and encashing the bank



respectively dated 2 November 2019 for a sum of Rs.40,00,000/- and Rs.40,67,487/- as issued by respondent No.1 bank in favour of the respondent No.2 on behalf of the applicant.

For petitioner : Mr.M.Arvind Subramaniam

For respondents : Mr.C.Mohan
for M/s.King & Patridge – R1

Mr.Rahul Balaji – R2

ORDER

This application has been filed seeking interim injunction as against invoking the bank guarantee by the second respondent.

2. The main contention of the applicant is that the second respondent is trying to revoke the bank guarantee. Whereas the communication of the bank itself indicate that, what was required is only to extend the bank guarantee as per the contract and infact, there is no attempt to invoke the bank guarantee and the letter has been sent to extend the bank guarantee.

3. The learned counsel Mr.Mohan, appearing for the HDFC Bank

submitted that the bank guarantee has been extended pursuant to the



Order of this Court dated 18.06.2021. Since, the bank guarantee has been extended, the invocation of the bank guarantee did not arise. In such view of the matter, the petitioner shall keep the bank guarantee alive till the arbitration proceedings gets over.

4. At this stage, the learned counsel for both sides submitted that the arbitrator can be appointed in this application itself and they agreed to Mr.Yashod Vardhan as an arbitrator.

5. Accordingly, it is ordered as follows:

i) that Mr.Yashod Vardhan, Senior Counsel, residing at New No.21, 7th Main road, RA Puram, Chennai – 600 028 Mobile No.9841075397 is appointed as a Sole Arbitrator to enter upon reference and adjudicate the matter.

ii] That the learned Arbitrator appointed herein, shall after issuing notice to the parties and upon hearing them, pass an award as expeditiously as possible, preferably within a period of six months



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iii] That the learned Sole Arbitrator appointed herein shall fix his fees and other incidental charges and the same shall be borne by the parties equally.

5. This Original application is ordered accordingly, leaving the parties to bear their own costs.

Sd./-(N.S.K.J.)
14.07.2021

//Certified to be true copy//

Dated at Madras this the day of 2021.

COURT OFFICER(O.S.)

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