



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.08.2021

CORAM :

THE HON'BLE MR.SANJIB BANERJEE, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE P.D.AUDIKEVALU

O.S.A.(CAD) No.31 of 2021

and C.M.P.Nos.10453, 10457, 10456 and 10459 of 2021

JSW Minerals Trading Pvt. Ltd.
rep. by Mr.Jayanta Sinha,
Jindal Mansion, 5A,
Dr.G.Deshmukh Marg,
Mumbai City, 400 026

... Appellant

Vs

1.LSS Ocean Transport DMCC,
Rep. by its Constituted Signatory,
having its registered office at Unit 2708
Jumeirah Business Centre 5
Cluster W Dubai,
United Arab Emirate

2.K.I (International) Ltd
rep. by its Director,
Having its registered office at
664, T.H.Road, Tondiarpet,
Chennai 600 081

3.Krishnapatnam Port Company Ltd.,
1st Floor, 48-9-17, Dwarakanagar,
Vishakapatnam 530 016, Andhra Pradesh, India.

4.The Deputy Commissioner of Custom,
Krishnapatnam Custom House,
Muthukar, Krishnapatnam Port,
Nellore, Andhra Pradesh

5.Asta Lingam Times Trading Co.,
No.12, Royan Kottai Street,
Kanchipuram 631 502.

... Respondents



Appeal filed against the Order dated 16.12.2020 in A.No.3114 of 2020 and A.No.231 of 2020 on the file of original side of this court.

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For the Appellant : Mr.Naved Askari
for Mr.B.Deepak Narayanan

For the Respondent : Mr.Raja Majumdar,
Senior Counsel,
for Ms.Deepika Murali for R-1
: Mr.Arvind Srevatsa for R-2
: Mr.P.Giridharan for R-3
: Mr.A.P.Srinivas for R-4
: No appearance for R-5

* * * * *

J U D G M E N T

(Delivered by the Hon'ble Chief Justice)

The appeal is by a stranger to the arbitration agreement and a non-party to the proceedings under Section 9 of the Arbitration and Conciliation Act, 1996 before the arbitration court here. The appellant's grievance is that it is the appellant's property on which an order has been passed and the appellant is, to such extent, prejudiced by the relevant order dated December 16, 2020.

2. Instead of receiving an appeal from the order, it may better serve the interest of justice if the appellant is given leave to apply before the arbitration court for recalling the relevant order to the extent that it prejudices the appellant, particularly since the appellant is not a party to the proceedings and the appellant could not have been adversely affected by any order in such proceedings.

3. The first respondent herein, the petitioner in the proceedings under Section 9 of the said Act before the arbitration court, has assured this court that no objection will be taken as to the maintainability of the relevant application for recalling the order.

4. Accordingly, O.S.A. (CAD) No.31 of 2021 is disposed of without going into the merits thereof and by leaving the appellant free to apply within three weeks from date for recalling the order dated December 16, 2020 passed by the arbitration court. In the event the relevant application is filed within the time permitted, no objection on the ground of delay may be taken by any of the parties to the proceedings.



C.M.P.Nos.10453, 10456, 10457 and 10459 of 2021 are closed.
There will be no order as to costs.

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Sd/-
Assistant Registrar(co)

//True Copy//

Sub Assistant Registrar

sra

To,

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

+1cc to Mr.Arvind Srevatsa, Advocate SR.No. 43294

+1cc to Mr.A.P.Srinivas, Advocate SR.No.43186

O.S.A.(CAD) No.31 of 2021

VSN II(CO)
A.SK(01.09.2021)