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/ 1 /

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

THURSDAY, THE 12th DAY OF AUGUST 2021

THE HON'BLE MR. JUSTICE N.SATHISH KUMAR

O.A. Nos.451 & 452 of 2012

and

A.Nos.331, 477, 478, 1567 & 1568 of 2013

O.A. No.451 of 2012:-

In the matter of Arbitration and
Conciliation Act, 1996

and

In the matter of Arbitration
Agreement No.53/CN/09 dated
19.05.2009

URC Constructions Pvt. Ltd.,
having its Registered Office at
119, Power House Road, Erode-638 001.
rep. by its Vice President Projects and
Authorised Signatory P.M.Murugan

... Applicant

-Versus-

1. The General Manager,
Southern Railway,
Park Town, Chennai-3.
2. The Chief Administrative Officer,
Constructions, Southern Railway,
Egmore, Chennai-8.
3. The Financial Advisor & Chief Accounts Officer,
(Principal Head of the Department),
Construction, Southern Railway,
Egmore, Chennai-8.



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4. The Financial Advisor & Chief Accounts Officer-I,
Construction, Southern Railway,
Egmore, Chennai-8.

5. The Chief Engineer/Central,
Construction, Southern Railway,
Egmore, Chennai-8.

6. The Deputy Chief Engineer-GC II,
Constructions, Southern Railway,
State Bank of India Road,
(McDonalds Road), Tiruchirapalli-1

... Respondents

Original Application praying that this Hon'ble Court be pleased to grant an order of injunction restraining the respondents from making any deductions in respect of Price Variation for the individual items of agreement quantities exceeding 125%, from the amounts payable to the applicant in respect of the agreement No.53/CN/2009 dated 19.05.2009, pending resolution of all disputes between the applicant and the Respondents by an Arbitral Tribunal to be appointed by the 1st Respondent in terms of Clause 64 of the General Conditions of Contract.

O.A. No.452 of 2012:-

In the matter of Arbitration and
Conciliation Act, 1996

and

In the matter of Arbitration
Agreement No.55/CN/09 dated
20.05.2009



/ 3 /

having its Registered Office at
119, Power House Road, Erode-638 001.
rep. by its Vice President Projects and
Authorised Signatory P.M.Murugan

... Applicant

-Versus-

1. The General Manager,
Southern Railway,
Park Town, Chennai-3.
 2. The Chief Administrative Officer,
Constructions, Southern Railway,
Egmore, Chennai-8.
 3. The Financial Advisor & Chief Accounts Officer,
(Principal Head of the Department),
Construction, Southern Railway,
Egmore, Chennai-8.
 4. The Financial Advisor & Chief Accounts Officer-I,
Construction, Southern Railway,
Egmore, Chennai-8.
 5. The Chief Engineer/Central,
Construction, Southern Railway,
Egmore, Chennai-8.
 6. The Deputy Chief Engineer-GC II,
Constructions, Southern Railway,
State Bank of India Road,
(Mcdonalds Road), Tiruchirapalli-1
- ... Respondents

Original Application praying that this Hon'ble Court be pleased to
grant an order of injunction restraining the respondents from making any
deductions in respect of Price Variation for the individual items of
agreement quantities exceeding 125%, from the amounts payable to the
applicant in respect of the agreement No.55/CN/2009 dated 20.05.2009,



pending resolution of all disputes between the applicant and the Respondents by an Arbitral Tribunal to be appointed by the 1st Respondent in terms of Clause 64 of the General Conditions of Contract.

A.Nos.331, 477, 478, 1567 and 1568 of 2013:-

1. The General Manager,
Southern Railway,
Park Town, Chennai-3.
 2. The Chief Administrative Officer,
Constructions, Southern Railway,
Egmore, Chennai-8.
 3. The Financial Advisor & Chief Accounts Officer,
(Principal Head of the Department),
Construction, Southern Railway,
Egmore, Chennai-8.
 4. The Financial Advisor & Chief Accounts Officer-I,
Construction, Southern Railway,
Egmore, Chennai-8.
 5. The Chief Engineer/Central,
Construction, Southern Railway,
Egmore, Chennai-8.
 6. The Deputy Chief Engineer-GC II,
Constructions, Southern Railway,
State Bank of India Road,
(McDonalds Road), Tiruchirapalli-1
- ... Applicants

-Versus-



/ 5 /

URC Constructions Pvt. Ltd.,
Having its Registered Office at
119, Power House Road, Erode – 638 001.
Rep. by its Vice President Projects and
Authorised Signatory P.M.Murugan.

... Respondent

A.No.331 of 2013:-

Application praying that this Hon'ble Court be pleased to set aside this Hon'ble Court's order dated 18.09.2012 setting the Respondent's ex-parte.

A.No.477 of 2013:-

Application praying that this Hon'ble Court be pleased to set aside this Hon'ble Court's order dated 29/10/2012 passed by this Hon'ble Court pending disposal of the above application.

A.No.478 of 2013:-

Application praying that this Hon'ble Court be pleased to set aside this Hon'ble Court's order dated 29/10/2012 passed by this Hon'ble Court pending disposal of the above application.

A.No.1567 of 2013:-

Application praying that this Hon'ble Court be pleased to condone the delay of 125 days in filing the application to set aside the interim order of this Hon'ble Court's order dated 29.10.2012.



A.No.1568 of 2013:-

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Application praying that this Hon'ble Court be pleased to condone the delay of 125 days in filing the application to set aside the interim order of this Hon'ble Court's order dated 29.10.2012.

These applications coming on this day before this court for hearing through video conference in the presence of Mr.S.Gowri Shankar, Advocate for the applicant in O.A.Nos.451 and 452 of 2012, and for the respondent in A.Nos.331, 477, 478, 1567 and 1568 of 2013, and the applicant in A.Nos.331, 477, 478, 1567 and 1568 of 2013 and for the respondents in O.A.Nos.451 and 452 of 2012 herein not appearing in person or by advocate, and upon reading the Judge's Summons and the common affidavit of Sanjay K.Lawhatre filed in A.Nos.331, 477, 478, 1567 and 1568 of 2013, and the order dated 29.10.2012 made in O.A.Nos.451 and 452 of 2012, and this court having observed that obtained the order of injunction, it has not been informed as to whether the arbitration has been invoked or not and therefore, in the absence of any intention to refer the matter for arbitration, this Court cannot wait years together without any arbitration and in such view of the matter, no further adjudication is required in these Original Applications, **it is ordered as follows:-**

That the order of interim injunction granted in pursuance of the order



/ 7 /

respondents therein, from a) making any deductions in respect of Price Variation for the individual items of agreement quantities exceeding 125%, from the amounts payable to the applicant in respect of the agreement No.53/CN/2009 dated 19.05.2009, and b) making any deductions in respect of Price Variation for the individual items of agreement quantities exceeding 125%, from the amounts payable to the applicant in respect of the agreement No.55/CN/2009 dated 20.05.2009 be and are hereby vacated.

2. That the connected applications A.Nos.331, 477, 478, 1567 and 1568 of 2013 do stand closed.

3. That there shall be no costs.

WITNESS THE HON'BLE MR. JUSTICE SANJIB BANERJEE,
CHIEF JUSTICE, HIGH COURT AT MADRAS AFORESAID, THIS THE
12th DAY OF AUGUST 2021.

Sd/-

ASSISTANT REGISTRAR (Comm.Cases)

Sd./-P.S.N.J.

07.11.2019

//Certified to be true copy//

Dated at Madras this the day of 2022.

COURT OFFICER(O.S.)

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/ 8 /

O.A. Nos.451 & 452 of 2012
and
A.Nos.331, 477, 478, 1567 & 1568 of 2013

ORDER

DATED: 12.08.2021

THE HON'BLE MR.JUSTICE
N.SATHISH KUMAR

FOR APPROVAL: 21.01.2022

APPROVED ON: 24.01.2022



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/ 9 /

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 12.08.2021

CORAM

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

O.A. Nos. 451 & 452 of 2012

and

A. Nos. 331, 477, 478, 1567 & 1568 of 2013

URC Constructions Pvt. Ltd.,
having its registered office at
119, Power House Road,
Erode – 638 001.
rep. by its Vice President Projects
and Authoised Signatory
P.M. Murugan

... Applicant in
both O.A.s

Vs.

1. The General Manager,
Southern Railway,
Park Town, Chennai-3.
2. The Chief Administrative Officer,
Constructions, Southern Railway,
Egmore, Chennai – 8.
3. The Financial Advisor & Chief
Accounts Officer,
(Principal Head of the Department),
Construction, Southern Railway,
Egmore, Chennai – 8.
4. The Financial Advisor & Chief
Accounts Officer – I,
Construction, Southern Railway,
Egmore, Chennai – 8.



5. The Chief Engineer / Central,
Construction,
Southern Railway,
Egmore, Chennai – 8.

6. The Deputy Chief Engineer – GC II,
Constructions, Southern Railway,
State Bank of India Road,
(Mcdonalds Road), Tiruchirapalli-1.

... Respondents in
both O.A.s

Prayer in O.A. No. 451 of 2012 : Original Application filed under Order XIV Rule 8 of O.S. Rules r/w Section 9(ii)(b) of Arbitration and Conciliation Act, 1996, praying to grant an order of injunction restraining the respondents from making any deductions in respect of price variation for the individual items of agreement quantities exceeding 125%, from the amounts payable to the applicant in respect of the agreement No.53/CN/2009 dated 19.05.09, pending resolution of all disputes between the applicant and the respondents by an Arbitral Tribunal to be appointed by the 1st respondent in terms of Clause 64 of the General Conditions of Contract.

Prayer in O.A. No. 452 of 2012 : Original Application filed under Order XIV Rule 8 of O.S. Rules r/w Section 9(ii)(b) of Arbitration and Conciliation Act, 1996, praying to grant an order of injunction restraining the respondents from making any deductions in respect of price variation for



/ 11 /

amounts payable to the applicant in respect of the agreement No.55/CN/2009 dated 20.05.09, pending resolution of all disputes between the applicant and the respondents by an Arbitral Tribunal to be appointed by the 1st respondent in terms of Clause 64 of the General Conditions of Contract.

For Applicant in
both O.A.s : Mr.S.Gowri Shankar

For Respondents in
both O.A.s : No appearance

ORDER

(This case has been heard through video conference)

These original applications have been filed in the year 2012 seeking to grant an order of injunction restraining the respondents from making any deductions in respect of price variation for the individual items of agreement quantities 125% from the amounts payable to the applicant and this Court by an order dated 29.10.2012 passed an order of injunction. Having obtained the order of injunction, it has not been informed as to whether the arbitration has been invoked or not. Therefore, in the absence of any intention to refer the matter for arbitration, this Court cannot wait years together without any arbitration.

2. In such view of the matter, no further adjudication is required in



/ 12 /

these Original Applications. Accordingly, the Original Applications are closed by vacating interim orders. No costs. Consequently, connected Applications are also closed.

Sd./-N.S.K.J.
12.08.2021

//Certified to be true copy//

Dated at Madras this the day of 2022.

COURT OFFICER(O.S.)

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