

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 05.02.2021

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

O.P.No.490 of 2020

M/s.URC Construction Pvt Ltd.,
Represented by its Managing Director
C.Devarajan,
Registered Office at
No.119, Power House Road,
Erode – 638 001.

... Petitioner

Vs.

1.M/s.Rites Ltd,
Rep. by its Managing Director,
3rd Floor, Sector – 144,
Gurgaon – 122003

2.Pondicherry University
Represented by its Registrar,
Bharath Rathna B.R.Ambedkar Administrative Block,
R.Venkatraman Nagar, Kalapet,
Puducherry – 605 014.

... Respondents

Prayer: Petition filed under Section 11 (6) of the Arbitration and Conciliation Act, 1996, to appoint an arbitrator to adjudicate the disputes between the petitioner and the respondent arising out of the Agreement No.RITES/CP/TC/PU/PONDI/P-II/2009 dated 02.06.2009.

For Petitioner : Mr.V.P.Sengottuvel
For Respondent 1 : Mr.V.G.Suresh Kumar
For Respondent 2 : Mr.M.Ravi

ORDER

This petition is filed by the petitioner invoking the provisions of Section 11 (6) of the Arbitration and Conciliation Act, 1996 for appointing an arbitrator to adjudicate the dispute between the petitioner and the respondent arising out of an agreement dated 02.06.2009.

2.The dispute involves two escalation cost demanded by the petitioner which is objected to by the 2nd respondent. The 1st respondent acted as the agent and Power of Attorney holder of the 2nd respondent for the entire work. The petitioner had issued a notice dated 13.02.2020 addressed to the Engineer in-charge in keeping with the provisions contained under the General Conditions of Contract relating to dispute resolution. Since there was no response from the Engineer in-charge the petitioner had made an appeal to the Appellate Authority on 28.02.2020 as provided under Schedule F of the agreement.

3. The Appellate Authority, though it was bound to give its decision within 30 days from the date of receipt of an appeal, has not given its decision. The petitioner therefore made one more representation on 21.03.2020 seeking a consideration of its appeal. Thereafter, the petitioner had invoked Clause 25 of the General Conditions of Contract by issuing notice dated 14.08.2020 for

appointing an arbitrator. The petitioner had given the names of the three arbitrators out of which one of them could be chosen as Arbitrator. Notices were received by both the respondents, however there was no response to the same. Therefore, the petitioner had moved this Court.

4. After receiving notice in the above petition, the 1st respondent had filed a counter in which they have not raised any serious objection for the appointment of an arbitrator.

5. The 2nd respondent has however not filed a counter though the learned counsel had appeared and argued the matter.

6. Heard the learned counsels and perused the records. Admittedly, the agreement between the petitioner and the respondents contemplates resolution of disputes through arbitration. It is also not in dispute that there is a dispute that has arisen between the parties.

7. In the light of the above circumstances, this Court is passing the following order:

i) Hon'ble Mr.Justice N.Paul Vasanthakumar (Retd), Former Chief Justice of Jammu and Kashmir, 'ASHIRVADH' No.24A, II Street, Kamaraj Avenue, Adyar, Chennai – 600 020, Mob: 9444390958, is appointed as an Arbitrator.

ii) The 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 entering reference. It is open to the respondent to raise all legal objections as to the validity of contract.

iii) The arbitrator is at liberty to fix the remuneration and other incidental expenses as per law.

iv) 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.

8. The Original Petition is, accordingly, ordered, leaving the parties to bear their own costs. No costs.

05.02.2021

Internet : Yes/No
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