

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.02.2021

C O R A M

THE HONOURABLE Ms. JUSTICE P.T. ASHA

O.P.No.567 of 2020

M/s.Spig Cooling Towers India Private Limited
having its registered office at
608, Palm Spring, Link Road,
Malad (West), Mumbai – 400 064,
through its authorized signatory
Mr.Mahendra R Daswani

...Petitioner

-V-

M/s.EDAC Engineering Limited,
97, Mount Road,
Chennai – 600 032,
Tamil Nadu.

...Respondent

Prayer: Original Petition filed under Section 11(5) of the Arbitration and Conciliation Act, 1996 praying to appoint an Arbitrator for and on behalf of the respondent in terms of Section 11(5) of the Arbitration and Conciliation Act, 1996, for resolution of the disputes between the petitioner and the respondent under Clause 18 of the Supply Contract dated 20.08.2010 and Clause 18 of the Erection Contract dated 20.08.2010 at Annexure A and Annexure-B, respectively.

For Petitioner : Mr.G.Vijayakumar

For Respondent : Mr.Shivakumar & Suresh

ORDER

The above petition has been filed for appointment of an Arbitrator to resolve the disputes between the petitioner and the respondent under Clause 18 of the Supply Contract dated 20.08.2010 and Clause 18 of the Erection Contract dated 20.08.2010 at Annexure A and Annexure-B, respectively.

2.A counter has been filed wherein in Paragraph 16, the respondent has stated as follows:

“16.In view of the breach of the Contract committed by the petitioner and due to MEL facing insolvency proceedings it is submitted that this respondent cannot be made liable for any of the claims of the claimant whether real or imaginary. Without prejudice it is submitted that the Arbitrator may be appointed provided the respondent

*is entitled to raise all defences and raise its counter claim
in the said proceedings.”*

3.Considering the above, this Court appoints the Hon'ble Mr. Justice M.Jaichandren (Rtd), Judge of Madras High Court, as an Arbitrator to resolve the disputes.

4. Accordingly, it is ordered as follows:

i)The Hon'ble Mr. Justice M.Jaichandren (Rtd), Judge of Madras High Court, residing at No.422, South 2nd Main Road, Sri Kapaleeswarar Nagar, Neelankarai, Chennai – 600 115, is appointed as the Arbitrator to enter upon reference and adjudicate the disputes *inter se* the parties.

ii) The learned 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 receipt of the order. It is open to the respondent to raise all legal objections as to the validity of contract.

iii) The learned Arbitrator is at liberty to fix his 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.

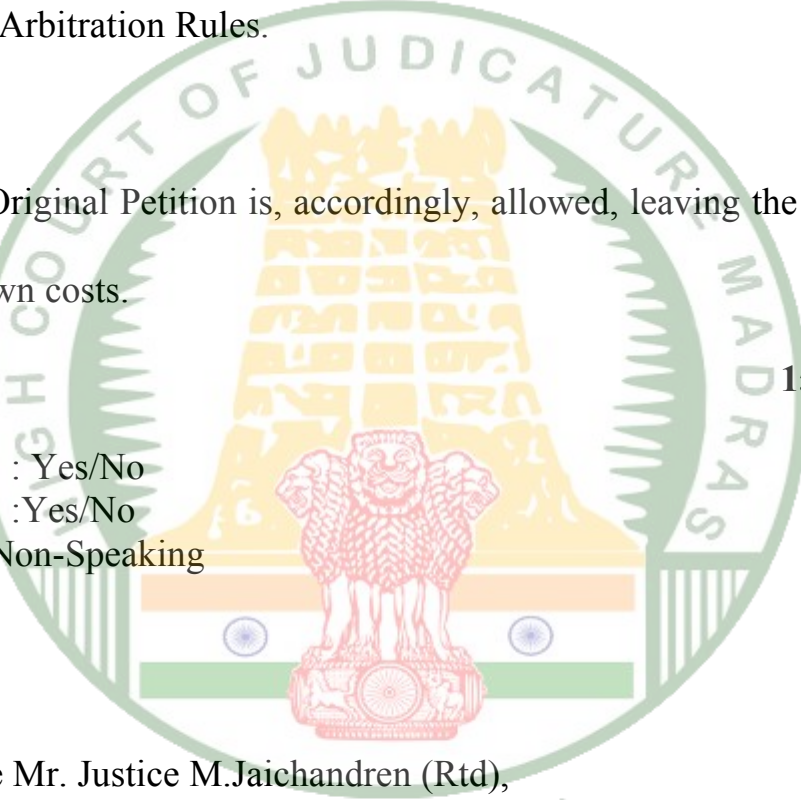
The Original Petition is, accordingly, allowed, leaving the parties to bear their own costs.

15.02.2021

Internet : Yes/No
Index : Yes/No
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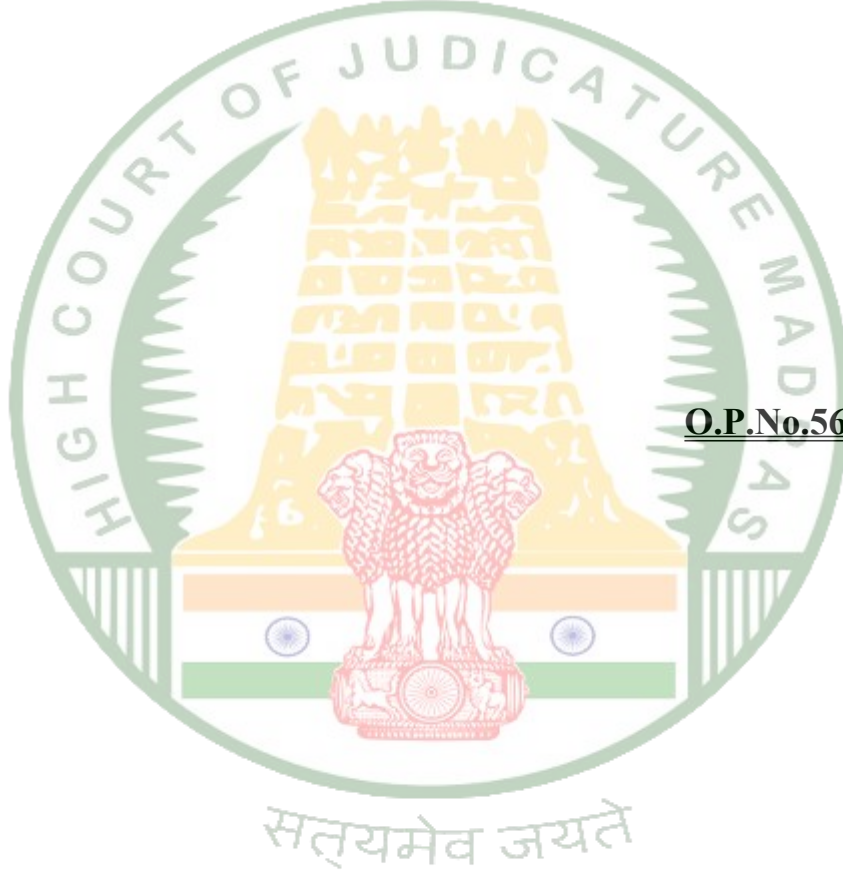
The Hon'ble Mr. Justice M.Jaichandren (Rtd),
Judge of Madras High Court,
No.422, South 2nd Main Road,
Sri Kapaleeswarar Nagar,
Neelankarai,
Chennai – 600 115.



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P.T. ASHA. J.

mps



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