

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

THURSDAY, THE 07TH DAY OF JANUARY 2021

THE HON'BLE MR. JUSTICE M.SUNDAR

OA.No.591 OF 2014

in

O.P.No. 421 of 2014

In the matter of the Arbitration and
Conciliation Act, 1996

and

In the matter of the Award dated
21.05.2014 made in Arbitration of the
disputes arising out of Agreement No-
CS/1/CE/OF 1994 dated 9/2/94 and
Rider Agreement in No-CS/Rider-
1/CE of 2000 dated 05.07.2000.

MALU SLEEPERS LTD.,
(FORMERLY MALU SLEEPERS PRIVATE LIMITED),
REPRESENTED BY ITS MANAGING DIRECTOR,
8, 1ST MAIN, GANDHI NAGAR,
BANGALORE - 560 009

..Petitioner

-Vs-

1. THE UNION OF INDIA
REPRESENTED BY THE CHIEF ENGINEER,
SOUTHERN RAILWAY,
PARK TOWN,
CHENNAI- 600 003.

2. MR RAJENDRA PRASAD (Sole Arbitrator),
PRESENTLY THE GROUP
GENERAL MANAGER (ENGINEERING),
DEDICATED FREIGHT CORRIDOR
CORPORATION OF INDIA LIMITED,
A GOVERNMENT OF INDIA

(MINISTRY OF RAILWAYS) ENTERPRISE, 5TH FLOOR,
PRAGATI MAIDAN METRO STATION
BUILDING COMPLEX,
NEW DELHI - 110 001

..RESPONDENTS

Original Application praying that this Hon'ble Court be pleased to pass an order of Injunction restraining the First Respondent from making any recoveries from the petitioner in pursuance of the Award dated 21/05/2014 passed by the 2nd Respondent pending the final disposal of the Original Petition in O.P.No.421 of 2014.

This Original Application coming on this day before this court for hearing the court made the following order:

Captioned application i.e., O.A.No.591 of 2014 has been taken out by the petitioner in the main 'Original Petition' ('OP' for the sake of brevity) i.e., O.P.No.421 of 2014.

2. Main OP is one assailing an 'arbitral award dated 21.05.2014' ('impugned award' for the sake of brevity) made by an 'Arbitral Tribunal' ('AT' for the sake of brevity) constituted by a sole Arbitrator.

3. Captioned application has been presented in this Court on 15.07.2014 with a prayer, which as culled out from the judges' summons reads as follows:

'Injunction restraining the First Respondent from making any recoveries from the petitioner in pursuance of the Award dated 21/05/2014 passed by the 2nd Respondent pending the final disposal of the Original Petition in O.P.No.421 of 2014.'

4. Thereafter, owing to amendment to 'The Arbitration and Conciliation Act, 1996 (Act No.26 of 1996)' ('A and C Act' for brevity), which kicked in with retrospective effect on and from 23.10.2015, vide an amending Act being Act 3 of 2016, such a prayer cannot be entertained now. To be noted, Section 36 of A and C Act captioned 'ENFORCEMENT' stood amended in its entirety vide this amending Act. Law is also now settled that amended Section 36 will apply to pending OPs also. Therefore, captioned application is closed albeit preserving the rights of the petitioner / applicant in the captioned application to take out a suitable application under amended Section 36 of A and C Act, if the need arises. To be noted, today parties have agreed that main OP will be heard out in the next listing. Be that as it may, though obvious it is made clear that if the need arises and if an application is taken out by the applicant in the captioned OP under amended Section 36, the same will be dealt with on its own merits and in accordance with the obtaining legal position.

Application closed albeit preserving the rights of the applicant in the aforesaid manner.

Sd/.M.S.J.
07.01.2021

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

SU/11.01.2021

COURT OFFICER(O.S.)

From 25.09.2008 the Registry is issuing certified copies of the Order/Judgment Decree in this format.