

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.02.2021

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

OP.No.565 of 2020

M/s. Simhadri Constructions
Represented by its Proprietor
V. Sreenivasulu,
No.31/2, Welcome Colony,
Anna Nagar West,
Chennai- 600 101.

...Petitioner

Vs

1. The Union of India
Represented by the General Manager,
Southern Railway,
Head Quarters Office,
Park Town,
Chennai- 600 003.

2. The Sr. DEN/Bridges/MAS,
Divl. Rly. Manager's Office,
Works Branch,
Chennai Division,
Chennai- 600 003.

.. Respondents

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Prayer : Original Petition filed under Section 11 (6) of Arbitration and Conciliation Act 1996 as amended by the Arbitration and Conciliation (Amendment) Act, 2015 praying to

- a) appoint an independent and impartial arbitrator to hear and decide the disputes between the petitioner and the respondent arising out of the contract Agreement No.171/BRIDGES/MAS dated 28.05.2018.
- b) Direct the respondents to pay the cost of this petition.

For Petitioner : M/s. P. Subba Reddy

For Respondents : Mr. P.T. Ramkumar, SC for Railways

ORDER

This petition is filed for appointing an Arbitrator since dispute had arisen between the parties in respect of the Agreement dated 28.05.2018.

2. From the records, it is seen that on 18.07.2018, the petitioner had invoked the Arbitration clause and the respondents had sent a reply dated

17.08.2020, in which they had requested the petitioner to waive the applicability of Section 12(5) of the Arbitration and Conciliation (Amendment) Act, 2015 and had requested them to sign necessary agreements. In this regard, a format of the same was also forwarded to the petitioner.

3. In response to the above, the petitioner had also sent a reply enclosing requisite agreement by letter dated 01.09.2020. The same has been received by the respondents on 01.09.2020. However, no steps as contemplated under Clause 64 (3) of the Indian Railways Standard General Conditions of Contract have been followed. They have therefore abdicated their right for the appointment of Arbitrator.

4. Accordingly, it is ordered as follows:

(i) The Hon'ble, Thiru. Justice A. Ramamurthi, (Retd.), Plot No.9(HIG) TNHB, Phase II, Nolambur, Mogappair West, Chennai- 37, Mobile No - 9444066306, 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.

सत्यमेव जयते

24.02.2021

mrn

Index : Yes/No
Speaking order/non-speaking order

To,

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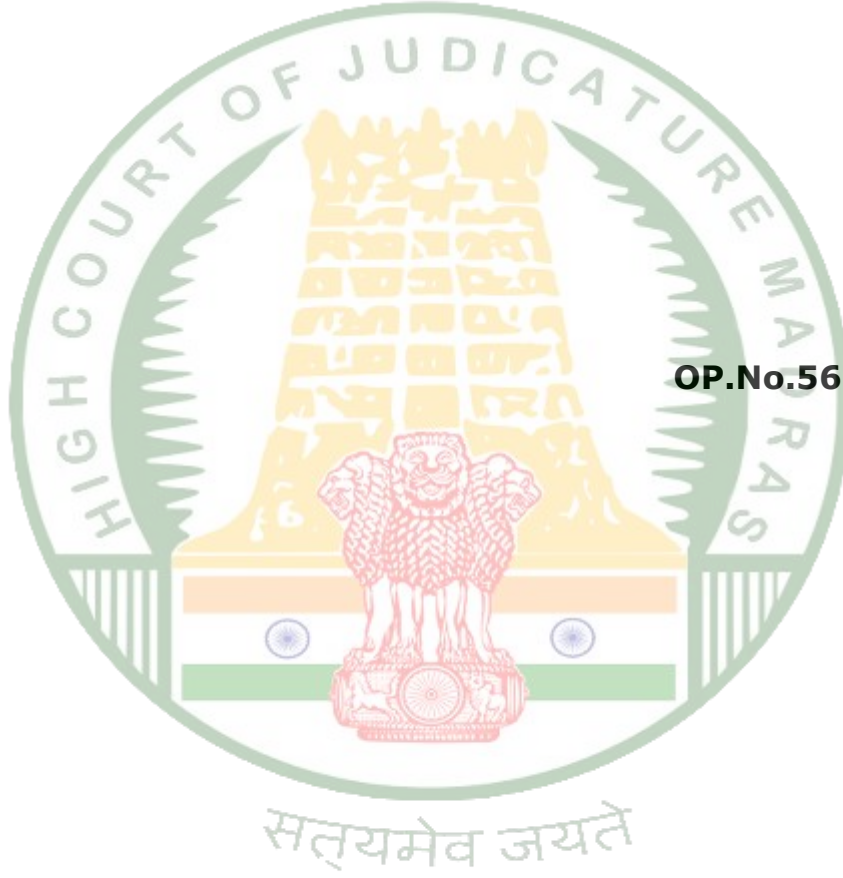
3. The Sr. DEN/Bridges/MAS,
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4. The Hon'ble, Thiru. Justice A. Ramamurthi, (Retd.),
Plot No.9(HIG) TNHB, Phase II, Nolambur,
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P.T.ASHA, J.

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