

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.02.2021

CORAM :

THE HONOURABLE MR.JUSTICE P.T.ASHA

Original Petition No.594 of 2020

K.Senthil Kumar

...

Petitioner

Versus

M/s.Deess Engineers India Projects Pvt. Ltd.,
Rep. by its Managing Director Mr.Mani,
No.237/1, Rohini Flats, 100 feet Road,
Anna Nagar West, Thirumangalam,
Chennai - 600 101.

...

Respondent

Prayer: Original Petition filed under Section 11(5) of the Arbitration and Conciliation Act, 1996, to appoint an Arbitrator to decide the disputes and dispute between the petitioner and respondent in terms of the Agreement dated 12.11.2018.

For Petitioner : M/s.Swaraj Associates

For Respondent : No appearance

ORDER

This Application has been filed under Section 11(5) of the Arbitration and Conciliation Act, 1996 seeking to appoint an Arbitrator to resolve the dispute between the parties.

2. The dispute have arisen between the petitioner and the respondent

with reference to supply of safety rails and steel fabrication and erection work undertaken for the respondent at Bangalore, for which the purchase order dated 05.01.2019 was entered into with the petitioner. The amount were due and owing from the respondent and therefore, the petitioner had invoked the Arbitration Clause which is contained in the Purchase Order dated 05.01.2019.

3.The petitioner had issued the notice on 09.10.2020 invoking the Arbitration Clause and calling upon the respondent to appoint the sole Arbitrator. However, the respondent had not come forward to make such an appointment. Therefore, the instant petition.

4. Heard the parties and perused the records.

5. The learned counsel for the respondent admitted the existence of the Arbitration Agreement between the parties and the dispute between the parties. The Clause 18 of the Purchase Order dated 05.01.2019 would read as follows:-

18.ARBITRATION, JURISDICTION & LAW:

If at any time, any questions, dispute or difference, whatsoever, shall arise between the Seller and the Buyer in relation to or in connection with or

arising out of this Purchase Order, both parties agree to resolve the same by mutual consultation. Failing resolution by mutual consultation, either party may give to the other a notice in writing of the existence of such question(s)/ dispute(s)/ difference(s) and the same shall be referred to the arbitration by mutually agreed sole arbitrator, if for any reason parties could not be able to agree to nominate sole arbitrator than the appointment of arbitrator shall be made as per provisions of Arbitration and Conciliation Act, 1996 by court. Award of the Arbitrator shall be final and binding on both the parties. The Arbitration proceedings shall also be governed by the provisions of the Arbitration and Conciliation Act 1996 and the rules framed there under and read with all statutory amendments and modifications thereof. Venue for arbitration shall be at Chennai. During and/ or on account of the arbitration preceding the Seller shall not stop any work/ activity to be performed under the purchase order. All disputes arising out of this contract will be subject to exclusive jurisdiction of Chennai Courts.

6. Considering the fact that disputes have arisen between the parties and parties have agreed to dispute resolution mechanism, it is ordered as follows:

i) Mr.P.Mohan Kumar, Advocate, residing at No.35/71, Sri Venkatesh Bhavan, Armenian Street, Chennai - 1, Contact No.97100 13331, 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.

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

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Speaking Order / Non-speaking Order

Index : Yes / No

Internet : Yes

dsa

To

Mr.P.Mohan Kumar,
No.35/71, Sri Venkatesh Bhavan,
Armenian Street, Chennai - 1,

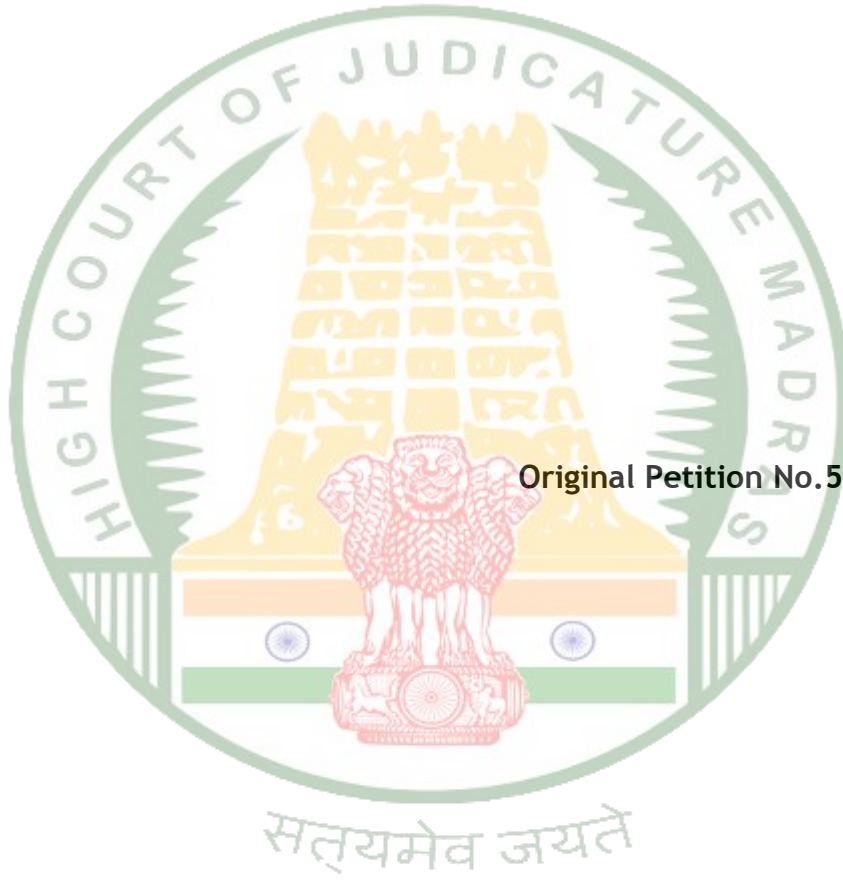


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