



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.12.2021

CORAM :

THE HON'BLE MR.MUNISHWAR NATH BHANDARI,
ACTING CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE P.D.AUDIKESSAVALU

O.S.A. (CAD) NO.131 OF 2021

AGAINST ARB.O.P.112 OF 2021

URC Construction (P) Ltd
No.119, Power House Road
Erode - 638 001, Tamilnadu.

.. Appellant

Vs

1. The General Manager
Southern Railway
Head Quarters Office
Park Town, Chennai - 600 003.
2. The Chief Engineer/Central
Construction, Southern Railway
Periyar E.V.R. High Road
Egmore, Chennai.

.. Respondents

Prayer:

Appeal under Section 13 of the Commercial Courts Act, 2015 and Section 37 of the Arbitration and Conciliation Act, 1996 read with Clause 15 of the Letters Patent and Order XXXVI Rule 1 of the Original Side Rules against the order dated 25.10.2021 passed in Arb. O.P. (Com. Div.) No.112 of 2021.

Prayer in Arb.O.P.No.112 of 2021:

Petition filed under Section 34(2)(a)(iv), b(ii) of Arbitration and conciliation Act praying to set aside the Arbitral Award passed by the learned Arbitrator herein dated 12.12.2019 and order dated 21.01.2020 made in rectification petition in relation to dispute arising out of agreement No.31/CN/2014 dated 07.04.2014, in so far as claim Nos.3.4, costs(claim No.5) and interest.



WEB COPY

For the Appellant : Ms.K.Aparna Devi

For the Respondents : Mr.P.T.Ramkumar
Standing Counsel

JUDGMENT

(Delivered by the Hon'ble Acting Chief Justice)

By this appeal a challenge is made to the interim order dated 25.10.2021.

2. The facts of the case show that pursuant to the claim made by the appellant, an award was passed by the arbitrator on 12.12.2019. An application under Section 34 of the Arbitration and Conciliation Act, 1996 (for brevity, "the Act") was filed by the respondents. The issue of limitation was raised therein as the award was passed by the arbitrator on 12.12.2019, whereas the application under Section 34 of the Act was preferred on 10.11.2020. It is stated that, during the intervening period, an application under Section 33(1) of the Act was moved seeking correction in the award. The said application was decided on 21.1.2020 and thereupon due to Covid-19 the period of limitation was extended.

3. According to the appellant, the issue of limitation has not been decided by the learned Single Judge and the matter has been placed for hearing the arguments on merits.

4. Learned counsel for the respondents initially contested the matter, but after going through the order under challenge would realise that the objection of the appellant about limitation has not been conclusively decided by the learned Single Judge.

5. In the order impugned, the learned Single Judge observed about his prima facie satisfaction with the argument of the learned counsel for the petitioners therein that the period of limitation will commence from the date of disposal of the application under Section 33(1) of the Act. The prima facie satisfaction can not be said to be conclusive finding on the issue of limitation.

6. In view of the above, both learned counsel agree that the issue of limitation may be directed to be considered by the learned Single Judge while hearing the merits of the case.



7. Accordingly, we cause interference with the order dated 25.10.2021 passed by the learned Single Judge and remit the matter with a request to decide the issue of limitation afresh while hearing the matter on merits.

WEB COPY

The appeal is disposed of accordingly. No costs. Consequently, C.M.P.No.20280 of 2021 is closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

sasi

To:

1. The Sub Assistant Registrar
Original Side
High Court, Madras.

+1cc to Mr.P.T.Ram Kumar, Advocate, SR.NO.68041(17/02/2022)

O.S.A. (CAD) No.131 of 2021

SSI (CO)
PM/23/12/2021