



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT  
(Civil Appellate Jurisdiction)

Monday, the Fifteenth day of March Two Thousand and Twenty One  
PRESENT

The Hon'ble Mr. Justice R.SUBRAMANIAN  
CMP(MD). No.1865 of 2021  
in CRP(MD).No.1822 of 2011

WEB COPY

- 1 The General Manager, Northern Railway, Baroda House,  
New Delhi.
  - 2 A.K.S.Shaiwal, Sole Arbitrator and Chief General Engineer /  
HJP, O/o the General Manager(Engg), East Central Railway,  
Hajipur, Bihar.
- ...Petitioner/Respondent

Vs

The Metal Powder Company Limited,  
Rep. by its Secretary Having Administrative Office and  
Factory at Maravankulam, Tirumangalam - 626 709,  
Madurai District.

...Respondent/Petitioner

Prayer in CMP(MD). No.1865 of 2021:-

Civil Miscellaneous Petition is filed under section 148 of Civil procedure Code, praying this Hon'ble Court to grant Extension of time of the operation of Order passed by this Honourable Court in C.R.P.(MD).No.1822 of 2011 dated 10.01.2020 and consequently permit the Sole Arbitrator to conduct the Arbitration Proceeding through Video Conferencing.

Prayer in CRP(MD).No.1822 of 2011 :

Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the proceedings in No.4-AKSS/ARB/Metal Powder/17, dated 15.07.2011 on the file of the A.K.S.Shaiwal, Sole Arbitrator and Chief General Engineer / HJP, O/o the General Manager(Engg), East Central Railway, Hajipur, Bihar.

ORDER:-

Civil Miscellaneous Petition coming on for orders on this day and upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of Mr.N.Mohideen Basha, Advocate for the Petitioner and of Mr.M.Saravanan, Advocate for the respondent, this Court made the following order:

By order dated 10.01.2020 made in CRP(MD)No.1822 of 2011, I had directed arbitration to be completed within a period of 12 weeks from the date of appointment of an Arbitrator. Since pandemic broke out, there had been some delay. It is also seen that there is some misconception regarding the venue of arbitration on the part of the sole Arbitrator appointed by the Railways which is projected by



the petitioner in the Civil Revision Petition as a ground to have the Arbitrator dislodged.

2. No doubt, the conduct of the Arbitrator in sending the proceedings fixing the seat and place of arbitration as New Delhi is not in a good taste since this Court had directed arbitration to be held at Madurai. Though the Arbitrator had subsequently retracted the claim made by him, it is seen from his report that he is not willing to concede that the venue and seat of arbitration would be at Madurai.

3. This attitude of the Arbitrator will not create a conducive atmosphere in the conduct of the arbitration proceedings. Once this Court fixes the venue of the arbitration, it is not open to the Arbitrator to fix the place of arbitration under Section 20 of the Arbitration Act. The discretion available to the parties has been superseded by the order of this Court. It is made clear that the venue and seat of arbitration as far as the arbitration proceedings are concerned would be only Madurai. It is however open to the Arbitrator to conduct arbitration proceedings virtually in view of prevailing pandemic situation. Time granted for completion of arbitration proceedings is extended by 6 months from today.

Sd/-

Assistant Registrar(AS)

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/ /2021

Sub Assistant Registrar(CS)

To

1 Mr.K.Rama Subramania Pillai, IRAS (Retd.),  
flat No.G4, Morning Rose, Victoria Garden,  
No.1, IAF Station Road, Tambaram - East,  
Chennai 600 059, Tamil Nadu,  
E-Mail: KVSP.rly@gmail.com

+1cc to Mr.R.Subramanian, Advocate SR No.11296

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NS (CO)

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