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Arb. O.P. No. 588 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.12.2022

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THE HONOURABLE MR. JUSTICE KRISHNAN RAMASAMY

Arb. O.P(Com.Div). No.588 of 2022

Oriental Rail Infrastructure Ltd.,
(previously known as Oriental Veneer Products Ltd),
Registered Office at:
no.25/A, Mohammedi Lakada Bazar,
no.1, M.S. Ali Road,
Mumbai-400 008.
and also at no.3B, 3rd Floor Flint Fortress,
AG 42, 3rd Street, Shanthi Colony,
Anna Nagar,
Chennai-600 040

... Petitioner

Vs.

1.Union of India,
rep. by the Principal Chief Material Manager,
Integral Coach Factory,
ICF, Chennai.

2.Mr.Ramesh Chandra
(Rtd., General Manager/WCR),
(Sole Arbitrator appointed)

... Respondents

PRAYER : Original Petition is filed under Sections 14(1) and 11(6) of the
Arbitration and Conciliation Act, 1996, praying

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(i) to pass an order, terminating the mandate of learned sole arbitrator Mr. Ramesh Chandra (retd. General Manager/WCR) appointed by ICF on 24.10.2019 as the sole Arbitrator in the arbitral proceedings.

(ii) to pass an order appointing independent sole Arbitrator to preside and adjudicate the dispute under purchase Order no.07/14/1483/2122/F dated 14.10.2014, Purchase Order no.07/14/1482/2123 dated 14.10.2014, purchase Order no.07/14/1481/2124/F dated 14.10.2014.

For Petitioner : Mr. K. Ashok Kumar

For Respondent : Mr. Rajesh Vivekanandan, CGSC for R1

ORDER

This Original Petition has been filed seeking to:

(i) to pass an order, terminating the mandate of learned sole arbitrator Mr. Ramesh Chandra (retd. General Manager/WCR) appointed by ICF on 24.10.2019 as the sole Arbitrator in the arbitral proceedings.

(ii) to pass an order appointing independent sole Arbitrator to preside and adjudicate the dispute under purchase Order no.07/14/1483/2122/F dated



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14.10.2014, Purchase Order no.07/14/1482/2123 dated 14.10.2014,
purchase Order no.07/14/1481/2124/F dated 14.10.2014.

2.Initially an arbitrator was appointed and he has passed an Award dated 11.03.2019 and thereafter, Section 34 application was moved by the first respondent challenging the said award. This Court, vide order dated 22.08.2019 in O.P.No.472 of 2019 set aside the award and directed the first respondent herein to appoint a fresh arbitrator to adjudicate the dispute within two months from the date of receipt of a copy of the order.

3.According to the petitioner, pursuant to the orders of this Court, the 1st respondent has appointed the 2nd respondent as sole Arbitrator. However, the arbitrator has not received any communication from the first respondent in spite of the appointment made in 2019 and till date the arbitration proceedings have not been commenced. Under such circumstances, the present Original Petition has been filed.

4. The learned counsel for the petitioner would submit that the



arbitrator was not able to perform his duty since he has not received any communication from the first respondent. However, vide communication dated 24.10.2019, the first respondent appointed one Mr.Ramesh Chandra, a retired General Manager, Southern Railway as a sole arbitrator for the claim made by the petitioner for refund of an amount of Rs.15,78,792/- , which was deducted by the ICF Administration towards liquidated damages for the delayed supply of the material.

5.Today, when the matter is taken up for hearing, the learned counsel for the respondents vehemently opposed the arguments advanced by the learned counsel for the petitioner. However, both the counsels finally agreed to commence the arbitral proceedings before Mr.Ramesh Chandra, who was appointed as sole arbitrator earlier by the first respondent vide communication dated 24.10.2019. The learned counsel further submitted that the said Mr.Ramesh Chandra is also willing to act as arbitrator. There is no dispute with regard to the adjudication of the dispute in terms of arbitration Clause 29 of the contract agreement.



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6. In view of the submissions made by the learned counsel for the parties and the dispute between the parties is liable to be adjudicated by way of arbitral proceedings and as both parties agreed to confirm and appoint Mr.Ramesh Chandra as sole Arbitrator who has been already appointed by the first respondent by virtue of the communication dated 24.10.2019 this Court feels it appropriate to pass the following order:

i) Mr.Ramesh Chandra,(Rtd.,) GM/WCR, residing at Flat No.703, Block no.1, Uniworld Garden-1, Sector -47, Sohna Riad, Gurgaon, Haryana-122018, shall continue as sole arbitrator to enter upon reference and adjudicate the disputes *inter se* the parties.

ii) That the learned Arbitrator appointed herein, shall 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.

iii) That the learned Sole Arbitrator appointed herein shall be paid fees and other incidental charges, fixed by him and the same shall be borne by the parties equally.

iv) In case the 1st respondent does not turn up and fails to participate in the arbitral proceedings, the remuneration fee and



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other incidental charges shall be paid by the petitioner at first
and later recover the same from the 1st respondent.

KRISHNAN RAMASAMY, J.

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6.This Original Petition is ordered accordingly, leaving the parties to bear their own costs. Since this Court has appointed an Arbitrator, it is open to the petitioner as well as the respondent to seek other reliefs under the provisions of Arbitration and Conciliation Act 1996 before the Arbitrator.

Dn

20.12.2022

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