



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.01.2022

CORAM

THE HONOURABLE MS.JUSTICE P.T.ASHA

C.R.P(MD)No.1904 of 2021

and

C.M.P(MD) No.10262 of 2021

M/s.Shri Vijaya RGGLV Indane Gas Services,
Represented by its Partner J.Sathyaraj,
Indane Distributor,
2/216 East Street,
Mugaiyur,
Villupuram District.

... Respondent/Respondent/
Petitioner

Vs.

- 1.The Chief General Manager(LPG),
Tamil Nadu State Office,
Indian Oil Corporation Ltd.,
Marketing Division,
Southern Region,
Indian Oil Bhavan,
139, Mahatma Gandhi Road,
Nungambakkam High Road,
Chennai-34.
- 2.The Chief Area Manager,
Indian Oil Corporation Limited,
Marketing Division,
Indane Area Office,
Triveni, IIInd Floor,
B.35 Sastri Road,
Thillai Nagar,
Trichy-18.

... Respondents/Applicants/
Respondents

PRAYER:- Civil Revision Petition filed under Article 227 of the Constitution of India, to allow this civil revision petition and to set aside the order dated 24.09.2021 in I.A.No.1 of 2021 in O.P.No.43 of 2021 on the file of learned Principal District Judge, Trichirapalli.

For Petitioner	: Mr.S.Vijayakumar
For R1	: No appearance
For R2	: Mr.K.Muraleedharan



ORDER

The claimant is the revision petitioner before this Court. He has challenged the order passed under Section 36 of the Indian Arbitration and Conciliation Act, 1996 staying the operation of the Arbitration Award in O.P.No.1119 of 2018 on the ground that the stay has been granted despite the fact that the respondents have not fully complied with the order dated 15.03.2021 in I.A.No.1 of 2021.

2.After hearing both counsels it is clear that the entire dispute in the above revision revolves around whether the interpretation of the order dated 15.03.2021 has been complied in letter and spirit by the respondents herein, thereby entitling the respondents to an order of the absolute stay till the disposal of Arbitration O.P.No.43 of 2021. All other facts are admitted by both parties. In order to appreciate the dispute, it would be useful to extract the award passed by the Arbitrator on 31.12.2019. The same is herein below extracted:-

(i) The Suspension order dated 25.09.2018(Ex.C7) is set aside;

(ii) The Respondents are directed to restore the business of the claimant Indane LPG Distributorship, Mugaiyur within a period of 15 days from the date of receipt of this award;

(iii) The orders passed by the second respondent imposing penalty as per Exs.C5 dated 05.07.2018, Ex.C-10, dated 14.11.2018 and Ex.R.10 dated 24.07.2018 are hereby set aside;

(iv) The Respondents are directed to refund the sum of Rs.23,62,697.35(Rupees Twenty-three lakhs sixty two thousand six hundred and ninety seven and paise thirty five only) being the penalty /fine amount collected from the claimant;

(v) The Respondents are directed to pay a sum of Rs.28,50,000/-(Twenty eight lakhs and fifty thousand only) for business loss.

(vi) The Respondents are directed to pay Rs.5,00,000/- (Rupees five lakhs only) on account of damages to the Claimant for loss of reputation and mental agony.

(vii) The above said amounts shall carry interest at the rate of 12% per annum from 01.10.2018 till the date of payments.



(viii) The Respondents are further directed to pay, at the rate of Rs.4,75,000/-(four lakhs seventy five thousand only) per month from 01.05.2019 till the date of restoring the Indane LPG Gas Distributorship to the claimant, at Mugaiyur, Villupuram Dt., as directed in clause ii of the Award, failing which this amount also shall carry interest at the rate of 12% till the date of distributor ship is restored.

(ix) The parties are directed to bear their respective costs since both incurred expenses of the case inequalities and considering the facts and circumstances of the case/dispute)

3. Thereafter, the respondents herein had challenged the award by filing a petition under Section 34 of the Arbitration and Conciliation Act, before this Court in O.P.No.18 of 2021. This Court, by an order, dated 04.02.2021, had returned the original petition for presentation before the Court having territorial jurisdiction, namely, the Court at Trichy. The petition was accordingly presented before the learned Principal District Judge, Trichy and numbered as Arbitration O.P.No.43 of 2021. In the said OP, the respondent herein had filed I.A.No.1 of 2021 for stay of further proceedings in the arbitration. By order dated 15.03.2021, the learned Principal District Judge, Trichy had ordered stay on condition to deposit 50% of the Arbitral award on or before 31.03.2021. The respondent had filed a lodgment schedule stating that the total amount payable by them was a sum of Rs.1,03,69,602.35/- and 50% of the said sum would work out to a sum of Rs.51,84,802/-. The said amount was also deposited by the respondents herein.

4.The revision petitioner filed a memo on 08.04.2021 contending that the respondents had not complied with the order dated 15.03.2021, since 50% of amount that was payable by them, would be a sum of Rs.98,99,058.25. The revision petitioner has contended that the award amount would include the following components that is Rs.23,62,697.25 towards the fine amount collected, Rs.28,50,000/- towards business loss, Rs.5,00,000/- towards damages and to all these amounts the interest has to be calculated at 12 % per annum from 01.10.2018 till the date of deposit. Besides this, consolidated amount of a sum of Rs. 4, 75,0000/- was to be calculated from 01.05.2019 till date of restoration of the distributorship and considering the fact that the distributorship has not been granted, the amount had to be calculated from 01.05.2019. The petitioner had filed the following memo of calculation:-

<https://hcservices.ecourts.gov.in/hcservices/>



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Amount Awarded	
1.Refund Ordered	23,62,697.25
2.Business Loss	28,50,000.00
3.Damages	5,00,000.00
Total Amount	57,12,697.35
Interest at the rate of 12 % p.a. from 1.10.18 to 17.12.2021 57,12,697 X 29 months	16,31,927.20
Amount Awarded	
Rs.4,75,000.00 per month payable from 1.5.2019 to 17.2.2021 - Rs.4,75,000 X 21 months and 17 days	1,02,325.28
Interest at the rate of 12% p.a. from 1.5.2019 to 17.2.2021 1,04,500 X 21 months 17 days	22,09,325.28
Total amount	1,97,98,116.50 as on 17.2.2021

5.However, the learned Principal District Judge, Trichirapalli, has failed to appreciate the above and simply accepted the lodgment schedule filed by the respondents and stated that 50% has to be paid only upon the award amount and subsequent interest or amount accrued cannot be included in the term award amount. The learned Principal District Judge, Trichirapalli, has overlooked the fact that a sum of Rs.1,03,69302.35 has been arrived at by the respondents by including interest though for a shorter period. Therefore, the reasoning is fallacious.

6.In the result, this Civil revision petition is allowed and the order making the stay absolute, is subject to the condition that the respondents shall deposit 50% of the award amount as directed and as set out in clauses (iv) to (viii) of the order dated 15.03.2021 less the amounts already deposited. The learned Principal District Judge, Tiruchirapalli, is directed to dispose of O.P.No.43 of 2021 on or before 30.04.2022. Both the counsel assure the Court that they will co-operate by not taking any further adjournments. It is made clear that if the Corporation seeks an extension of time



beyond the period, then the revision petitioner shall be permitted to withdraw 25% of the amount deposited. No costs. Consequently, connected miscellaneous petition is closed.

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Sd/-

Assistant Registrar (AD-II)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To:-

The Principal District Judge,
Trichirapalli.

+1 CC to M/s.S.VIJAYAKUMAR, Advocate (SR-1214[F] dated 11/01/2022)

C.R.P(MD)No.1904 of 2021

10.01.2022

nsn(CO)

GC(16.02.2022) 5P 3C