



WEB COPY



C.M.P.No.3995 of 2023

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in

O.S.A.No.257 of 2004

R.SUBRAMANIAN, J.

and

R.KALAIMATHI, J.

The petitioner seeks refund of a sum of Rs.68,27,990/- deposited by it pursuant to an interim order made in CMP.No.18153 of 2004 in OSA.No.257 of 2004.

2. The 1st respondent was a transport contractor of the petitioner for the period between 1996 and 1998. The 1st respondent had made certain claims against the petitioner, which according to the 1st respondent, were due by the petitioner due to hike in price of diesel during the contract period.

3. The matter was referred to arbitration and the Arbitrator by the award dated 21.09.2001 dismissed the claims. The 1st respondent had filed an OP under Section 34 seeking to set aside the award. This Court by order dated 25.09.2003 set aside the award and found that the 1st respondent is entitled to a sum of Rs.25,87,500/- for the first contract and Rs.27,46,998/- for the second contract. This Court rejected the claim for interest.



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Aggrieved, the petitioner filed an appeal in OSA.No.257 of 2004 and as a condition for grant of stay, the petitioners were directed to deposit 50% of the award amount.

4. Consequent upon the said order, the petitioner had deposited Rs.26,67,245/- to the credit of OP.No.188 of 2002 in this Court. Finally on 29.11.2007 the said OSA.No.257 of 2004 was allowed and the order passed by the Single Judge in OP.No.188 of 2002 was set aside. The 1st respondent again made a claim on 22.02.2011 and Tr.Boovalingam was appointed as an Arbitrator and the said Arbitrator dismissed the claim. Thereafter, the 1st respondent has not chosen to pursue the matter further. The award dismissing the claim has become final. Now the petitioner wants to withdraw the said sum of Rs.26,67,245/- with accrued interest, which is lying in deposit to the tune of Rs.68,27,990/-.

5. Mr.A.R.Nixon, learned counsel appearing for the 1st respondent, on instructions, would submit that the award having become final, the 1st respondent has no objection for an order being passed permitting the petitioner to withdraw the said amount.



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6. Accordingly, this petition is **allowed** and there will be a direction

to the Registry to refund the deposit standing to the credit of OP as of today

by any usual means of transfer.

(R.S.M., J.) (R.K.M., J.)

18.08.2023

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