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O.S.A.(CAD).No.35 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.04.2023

CORAM :

**THE HON'BLE MR.T.RAJA, ACTING CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY**

O.S.A.(CAD).No.35 of 2023
and C.M.P.No.8046 of 2023

NLC India Ltd.

Presently at:

First Floor, No. 8, Mayor Sathiyamurthy Road,
FSD, Egmore Complex of Food Corporation of India,
Chetpet, Chennai - 600 031.

Formerly at:

135 EVR Road
Kilpauk, Chennai - 600 010.

Represented by its Chairman / Managing Director ... Appellant

Versus

TAQA Neyveli Lignite Power Company Pvt. Ltd.
(Formerly known as ST-CMS Electric Co. Pvt. Ltd.)

Presently at:

79, Kasturi Avenue, MRC Nagar,
RA Puram,
Chennai - 600 028.

Formerly at:

4-D, Century Plaza
560-562, Mount Road,
Chennai.



O.S.A.(CAD).No.35 of 2023

Represented by its Company Secretary,
K.Raghunathan

... Respondent

Prayer : Original Side Appeal - Commercial Appellate Division filed under Section 13(1)(A) of the Commercial Courts Act, 2015 read with Section 37(1)(b) of the Arbitration and Conciliation Act, 1996 to set aside the impugned order dated 09.03.2023 in Original Application No.111 of 2023.

For Appellant : Mr.A.R.L.Sundaresan,
Senior Counsel
Assisted by Mr.S.S.Arjun

For Respondent : Mr.P.S.Raman, Senior Counsel
Assisted by
Mr.Thriyambak J.Kannan

JUDGMENT

(Made by the Hon'ble Mr.Justice D.Bharatha Chakravarthy)

This Original Side Appeal is directed against the order of the learned Single Judge, dated 09.03.2023 in O.A.No.111 of 2023 granting an interim order of injunction in the application filed under Section 9 of the *Arbitration and Conciliation Act, 1996*.

2. When the matter came up for hearing, considering the fact that the learned Single Judge himself has restricted the interim order only for a period of one month from the date of initiation of arbitration proceedings,



O.S.A.(CAD).No.35 of 2023

WEB COPY

today both the sides filed memos indicating their nominee Arbitrators to the Tribunal. On behalf of the appellant, the memo has been filed nominating Ms.Justice Indu Malhotra, learned Retired Judge of the Hon'ble Supreme Court of India as its nominee Arbitrator. It is also informed that the learned Judge had consented to be the learned Arbitrator.

3. A memo has been filed on behalf of the respondent nominating Mr.Justice L.Nageshwar Rao, learned Retired Judge of the Hon'ble Supreme Court of India as its nominee and that the learned Judge had consented for the same.

4. In view there of, both the learned Arbitrators have to meet and nominate the Presiding Arbitrator and the arbitration proceedings shall continue. Upon constitution of the Arbitration Tribunal, the said interim prayer, which is prayed for in the present O.A.No.111 of 2023, shall be considered by the Tribunal under Section 17 of the *Arbitration and Conciliation Act*, 1996 without being, in any manner, influenced by the observations made by the learned Single Judge, but, on its own merits. It



O.S.A.(CAD).No.35 of 2023

WEB COPY

goes without saying that all the questions raised by the parties in this appeal are left open to be raised before the learned Arbitrators.

5. The Original Side Appeal in O.S.A.(CAD).No.35 of 2023 is disposed off on the above terms. There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

(T.R., ACJ.)

(D.B.C., J.)

27.04.2023

Index : yes/no

Speaking order/Non-speaking order

Neutral Citation : yes/no

grs



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O.S.A.(CAD).No.35 of 2023

**T.RAJA, ACJ.,
AND
D.BHARATHA CHAKRAVARTHY, J.,**

grs

O.S.A.(CAD).No.35 of 2023
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