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Arb.O.P.(Com.Div.)No.373 of 2022



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.07.2023

CORAM

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

Arb.O.P.(Com.Div.)No.373 of 2022

M/s.Obul Reddy Constructions,
Rep. by its Managing Partner,
O.Subba Reddy

... Petitioner

Vs.

1.The Union of India,
Rep. by the General Manager,
Southern Railway, Park Town, Chennai - 3.

2.The Senior Divisional Engineer (Co -ordination),
Tiruchirappalli Division,
Southern Railway, Tiruchy - 620 001.

... Respondents

PRAYER: Petition filed under Section 11 (6) of the Arbitration and Conciliation Act, 1996 to appoint the independent arbitrator to arbitrate all the claims and disputes arising out of the agreement No:TPJ/143/2018 dated 18.12.2018 between the petitioner and the respondents and to direct the respondents to pay the cost of the petition.

For Petitioner : Ms.Amala Raj S.Penikilapatti

For Respondents : Mr.P.T.Ram Kumar
Standing Counsel - Railways



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ORDER

This Court by its order dated 11.10.2022, based on the consent given by the petitioner, appointed Smt.Vijaya kanth, Sri. Ram Prakash Sharma as arbitrators and Mr.S.Muralidaran was appointed as a presiding arbitrator. However, inadvertently the arbitration O.P.No.373 of 2022 was not disposed of by this Court despite the fact that the main relief sought for was only for appointment of an arbitrator.

2. Pursuant to the order dated 11.10.2022 passed by this Court, the appointed arbitrators acted upon the reference and had proceeded with the arbitration. Both the parties to the dispute also participated in the arbitration. But, however, as seen from the documents filed along with the typed set of documents filed on 29.03.2023 by the learned counsel for the petitioner, the presiding arbitrator Mr.S.Muralidaran has recused himself for the reasons stated in the e-mail which are part of the type set of documents dated 29.03.2023.

3. Learned counsel for the petitioner now seeks for appointment of an independent arbitrator. Such a relief cannot be granted by this Court in this



Arbitration O.P., as this Court had already appointed the panel of arbitrators by its order dated 11.10.2022.

4. Learned Standing Counsel for the respondents also vehemently opposes the appointment of an independent presiding arbitrator by this Court. While that be so, the question of appointing a presiding arbitrator in this petition will not arise. If at all the petitioner seeks for appointment of an independent arbitrator, as a substitute for the presiding arbitrator Mr.S.Muralidaran, who has recused himself, the petitioner will have to file an appropriate petition under the provisions of the Arbitration and Conciliation Act, 1996.

5. In terms of the aforementioned directions, this Arbitration Original Petition is disposed of, by granting liberty to the petitioner to file an appropriate petition under the provisions of the Arbitration and Conciliation Act, 1996. No costs.

13.07.2023

Index : Yes/No
Speaking Order : Yes / No
Neutral Citation Case: Yes / No
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ABDUL QUDDHOSE. J.,

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