



O.A.No.700 of 2023 etc.

Original Application No.700 of 2023

and

Arbitration Application No.411 of 2023

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ABDUL QUDDHOSE, J.

M/s.Srishaila Construction Pvt. Ltd.,
Kalyan Nagar,
Bangalore - 560 043.

... Applicant in both applications

Vs.

Kandla Oil Terminal Private Limited,
Chennai. and others

... Respondents in both applications

This Court, by its earlier order dated 14.09.2023, based on the undertaking given by the applicant, made it clear that in case the applicant fails to remit a sum of Rs.1,00,00,000/- on or before 27.09.2023, the first respondent can be permitted to invoke the Bank Guarantee to the extent of Rs.1,00,00,000/-.

2. It is fairly conceded by the learned counsel for the applicant that the applicant was unable to mobilise a sum of Rs.1,00,00,000/- and remit to the account of the first respondent on or before 27.09.2023. Since the applicant has failed to comply with its own undertaking, the first respondent



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is now permitted to invoke/encash the bank guarantee furnished by the applicant for a sum of Rs.1,00,00,000/- .

3. Insofar as the second bank guarantee is concerned, the applicant shall keep the said bank guarantee alive till the disposal of the arbitration. The renewal of the bank guarantee for a sum of Rs.78,00,000/- till the disposal of the arbitration shall be made by the applicant 2 days prior to the expiry date and in case, if it is not done, the first respondent is permitted to encash that bank guarantee also. The applicant is directed to initiate arbitration in case they have a claim against the first respondent in a manner known to them under law.

4. Arbitration Application No.411 of 2023 has been filed by the applicant challenging the termination order issued by the first respondent.

5. The learned counsel for the applicant seeks liberty of this Court to seek for a similar relief before the arbitral tribunal once the same is constituted under Section 17 of the Arbitration and Conciliation Act, 1996. The said statement is recorded. No prejudice will be caused if such a liberty is granted by this Court.



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6. In terms of the aforesaid directions, these applications are disposed of and liberty is granted to the applicant to file a similar relief as sought for in Arbitration Application No.411 of 2023 and any other relief before the arbitral tribunal once the same is constituted under Section 17 of the Arbitration and Conciliation Act, 1996.

27.09.2023

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27.09.2023