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CRP No.3499 of 2023
and CMP.No.21803 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :01.11.2023

CORAM :

THE HONOURABLE MRS. JUSTICE T.V. THAMILSELVI

C.R.P.No.3499 of 2023
and
C.M.P.No.21803 of 2023

The Deputy Chief Engineer,
Southern Railway,
Salem.

... Petitioner

Versus

M/s. Nilakandan and Sons Private Limited,
Rep.by its Managing Director-N.Jayachandran,
No. 2, First Floor, Gokul Towers,
No. 7, C.P.Ramasamy Road,
Chennai – 600 018.

...Respondent

Prayer: Civil Revision Petition filed Under Article 227 of Constitution of India, praying to set aside the fair order and decreetal dated 21.08.2023 made in E.P.No. 2326 of 2022 in Arbitration award in OP.No. 587 of 2012 on the file of the X Assistant judge, City Civil Court at Chennai.

For Petitioner : Mr.K.Muthamil Raja

For Respondent : Mr.A.E.Ravi Chandran



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ORDER

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Challenging the impugned order passed in E.A.No.2326 of 2022 in Arbitration Award in O.P. No. 587 of 2012 by the learned X Asstistant Judge, City Civil Court, Chennai, the Revision Petitioner/judgment debtor preferred this Civil Revision Petition.

2. Before the Executing Court, the decree holder initiated proceedings in E.P.No. 2326 of 2022 to execute the arbitration award passed in O.P.No.587 of 2012 against the judgment debtor and for attachment of property. That petition was allowed and ordered for attachment of schedule mentioned property of judgment debtor. As there is a mistake in the calculation made by the decree holder, the judgment debtor preferred this Civil Revision Petition.

3. The learned counsel for Revision Petitioner/Judgment debtor would submit that the Executing Court has calculated the interest beyond the scope of arbitration award and the calculation is to be started from the date of filing the Original Petition i.e. on 30.12.2012. On the contrary, the decree holder seeking interest from the date of reference made by him for arbitration in the year of 2006, which is beyond the scope of decree. Hence, he prayed to set



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aside the findings of the trial judge.

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4. By way of reply, the learned counsel appearing for the decree holder submits that as per the agreement entered with the railways letter of acceptance was given during September 2005 and to that effect, agreement was entered between them on 07.04.2006. However, as there was a delay in disbursement of the payments to the petitioner, the dispute arose between the parties. Hence, he invoked the arbitration clause and he issued various letters dated 30.09.2006, 10.11.2006, 20.08.2007, 20.12.2009 etc., to appoint an arbitrator. But, the arbitrator was not appointed immediately. Only in the year of 2012, arbitration proceedings was invoked and arbitrator was appointed in Arbitral O.P. 587 of 2012. Thereafter, the award was passed, the counsel who has appeared for the revision petitioner submits that from the year of 2012, the decree holder is entitled to claim interest, not from the year of 2006. But, the learned counsel for the Respondent/decreed holder submitted that as per clause 64(1)(ii)(a) general condition of contract, it reveals as follows:-

“the arbitration proceedings shall be assumed to have commenced from the day, a written and valid demand for arbitration is received by the railway”.



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5. Admittedly, from the year of 2006, written demand starts on the side of the Decree holder as per the award dated 31.03.2016. So, I do not find any merit in this Civil Revision Petition. Accordingly, this Civil Revision Petition is dismissed as no merits. The Judgment Debtor/Revision Petitioner is directed to pay the award amount within a period of eight weeks from today. No costs. Consequently, connected miscellaneous petition is closed.

01.11.2023

Index : Yes/No
Speaking/Non Speaking order
Neutral Citation: Yes/No
nsl

To

1. X Assistant Judge, City Civil Court,
Chennai
2. The Section Officer,
VR-Section, High Court of Madras.



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T.V.THAMILSELVI, J.

ns1

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