



O.P. No.60 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 18.01.2024

CORAM

THE HON'BLE Mr. JUSTICE C.SARAVANAN

O.P.Nos.60 of 2021 and 589 of 2020
and
A.Nos.220 of 2021 and 2857 of 2022

O.P.No.60 of 2021:-

The Chennai Metropolitan Water Supply
And Sewerage Board,
Represented by its Chief Engineer,
(Projects – I),
No.1, Pumping Station Road,
Chintadripet,
Chennai – 600 002.

... Petitioner

VS

M/s.Abhiram Infra Projects Private Limited,
Represented by its Authorized Signatory,
Flat No.B-302 Utsav,
Seenappa Layout,
New BEL Road,
Bangalore – 560 094

...Respondent

Prayer: Original Petition filed under Section 34 (2) of the Arbitration and Conciliation Act, 1996, to set aside the portion of the Award dated 01.10.2019 passed by the Hon'ble Tribunal to an extent as aggrieved by the



O.P. No.60 of 2021

Petitioner/Respondent herein in respect of the Arbitration proceedings between the Petitioner/Respondent and Respondent.

For Petitioner :M/s.Gautam S.Raman

For Respondent :Mr.P.J.Rishikesh

O.P.No.589 of 2020:-

M/s.Abhiram Infra Projects Private Limited,
Flat No.B-302, Utsav,
Seenappa Layout,
New BEL Road,
Bengaluru – 560 094,
Represented by its Managing Director Sri.A.Peri Reddy ... Petitioner

vs

The Chennai Metropolitan Water Supply
And Sewerage Board,
Represented by its Chief Engineer,
(Projects – I),
No.1, Pumping Station Road,
Chintadripet,
Chennai – 600 002. ...Respondent

Prayer: Original Petition filed under Section 34 (2) of the Arbitration and Conciliation Act, 1996, to set aside the portion of the Award dated 01.10.2019 passed by the Hon'ble Tribunal to an extent as aggrieved by the Petitioner/Respondent herein in respect of the Arbitration proceedings between the Petitioner/Respondent and Respondent.



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For Petitioner :Mr.P.J.Rishikesh

For Respondent :M/s.Gautam S.Raman

COMMON ORDER

By this common order both the Original Petitions are being disposed of.

2. Both the petitioners and the respondents in the respective Original Petitions are aggrieved by the Award passed by the Arbitral Tribunal on 01.10.2019.

3. By the aforesaid Award dated 01.10.2019, the Arbitral Tribunal has partly allowed the claim of the petitioner/claimant in O.P.No.589 of 2020 to the extent of Rs.2,85,00,846/- and Rs.1,32,36,000/- towards the return of the performance guarantee. The petitioner in O.P.No.60 of 2021 was the respondent before the Arbitral Tribunal. The petitioner in O.P.No.60 of 2021 is aggrieved by the Impugned Award in as much as the Arbitral Tribunal has only awarded a sum of Rs.2,85,00,846/- and Rs.1,32,36,000/- to claimant but has also rejected the counter-claim for a sum of Rs.10,13,90,616.80/-.



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4. On the other hand, the petitioner in O.P.No.60 of 2021 (the respondent before the Arbitral Tribunal) has challenged the award stating that having come to the conclusion that the claimant was responsible for the delay, the Tribunal ought to have awarded the counter claim for a sum of Rs.10,13,90,616.80/-.

5. The learned counsel for the claimant/petitioner in O.P.No.589 of 2020 would submit that there is a clear admission before the Arbitral Tribunal by the respondent (petitioner in O.P.No.60 of 2021), that the claimant was entitled to receive a sum of Rs.2,85,00,846/-. To that extent it is submitted that the Impugned Award need not be disturbed.

6. I have considered the arguments advanced by the learned counsel for the petitioner and the learned counsel for the respondent.

7. Considering the fact that the award is subject matter of challenge by both the parties to the Arbitral Proceedings, Court is of the view that the Impugned Award can be set aside for the parties to work out their remedy before the Arbitral Tribunal afresh.

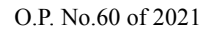
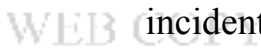


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8. The learned counsel for both the parties requested that the matter may be referred to an Arbitral Tribunal presided over by a retired judges of the High Court.

9. Recording the request of the counsels for either of the parties, **Hon'ble Mr.Justice V.Parthiban, (Retd.), Former Judge of Madras High Court residing at No.5069, 12th Street, Z block, Anna Nagar, Chennai – 600 040 (Mobile No.9444094401)** is appointed as the sole Arbitrator to enter upon reference to resolve the *inter se* dispute between the parties.

10. The learned Arbitrator appointed herein, shall after issuing notice to the parties and upon hearing them, endeavour to complete the arbitral proceedings and pass an award strictly in accordance with the provisions of the Arbitration and Conciliation Act, 1996, as expeditiously as possible, preferably within a period of twelve months after the date of completion of pleadings under Sub-Section 4 to Section 23 as is contemplated in Section 29A of the Arbitration and Conciliation Act, 1996, without getting influenced by any of the observations made by this Court in this order.



13. Since this Court has appointed the Arbitrator, it is open to the petitioner as well as the respondent to seek other reliefs under Section 17 of the Arbitration and Conciliation Act, 1996, before the learned Arbitrator.

18.01.2024

Speaking/Non-speaking order
Index : Yes / No
Neutral Citation : Yes / No
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C.SARAVANAN, J.

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