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A.No. 827 of 2024
in
Arb.O.P.(Com. Div.).No.50 of 2023

C.SARAVANAN.J.,

This application has been filed to amend the name of the first respondent. Earlier by an order dated 11.07.2023, this Court was pleased to allow this petition by appointing an Arbitrator. It appears that during the course of the Arbitral proceedings before the Arbitrator, a preliminary objection was raised by stating that the respondents have been wrongly impleaded as only the Union of India was the party to the agreement dated 11.12.2020 with the petitioner/applicant. To rule out confusions, the applicant has thus filed this application. This application is opposed by both the respondents.

2.As far as the first respondent is concerned, it is submitted that no notice under Section 21 of Arbitration and Conciliation Act, 1996 was issued to the first respondent and therefore, Arbitration proceedings itself was pre-mature. It is therefore submitted that the present application be dismissed.



3.As far as second respondent is concerned, it is submitted that the second respondent is not a party to the agreement and was an unnecessary party to the Arbitral proceedings and therefore, the Arbitration proceedings cannot be foisted on the second respondent.

4.The applicant has signed an agreement with “the Union of India, The Ministry of Road Transport & Highways, Government of India represented by the Superintending Engineer, National Highways, Madurai Circle, Madurai, Tamil Nadu.”

5.By this application, the applicant is merely seeking to substitute the name of the first respondent with the Union of India, The Ministry of Road Transport & Highways, Government of India represented by Superintending Engineer, National Highways, Madurai Circle, Madurai, Tamil Nadu, instead of The Superintending Engineer, National Highways, No.5, Besant Nagar, Chinna Chokkikulam, Madurai – 624 005.

6.I see no impediment in allowing this application as the agreement



dated 11.12.2020 is between the applicant and Union of India, The Ministry of Road Transport & Highways, Government of India represented by Superintending Engineer, National Highways, Madurai Circle, Madurai, Tamil Nadu. Therefore, this application deserves to be allowed.

7.At the same time, it is to be held second respondent was an unnecessary party in the Arbitral proceedings. Hence this application for amending the cause title in the order passed earlier on 11.07.2023 is partly allowed. Accordingly, name of the first Respondent in Order dated 11.07.2023 shall stand substituted with the Union of India, The Ministry of Road Transport & Highways, Government of India represented by Superintending Engineer, National Highways, Madurai Circle, Madurai, Tamil Nadu and name of the second respondent namely the Divisional Engineer shall stand deleted.

8.All the issues are left open to be canvassed before the learned Arbitrator under Section 16 of The Arbitration and Conciliation Act, 1996. This application stands partly allowed with the above observations.



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9.The Applicant is permitted to carry out necessary amendment in the claim petition before the learned Arbitrator. The applicant is directed to file suitable counter, plaint, statement before the learned Arbitrator.

11.03.2024

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