



WEB COPY

W.P.No.5241 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.06.2024

CORAM :

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P.No.5241 of 2023
and
W.M.P.Nos.5250 & 5252 of 2023

M/s.Jahnvi Granites and Builders,
Rep. By its Proprietor,
namely K.Sathyanarayana Raju
No.1182, HIG, 9th B Cross,
Yelahanka New Town,
Bangalore – 560 064.

.. Petitioner

vs

- 1.The Union of India
Rep. By its General Manager,
Southern Railways,
Poonamalee High Road, Park Town,
Chennai – 600 003.
- 2.The Chief Administrative Officer,
Construction, Southern Railways,
Egmore, Chennai – 600 008.
- 3.The Chief Engineer,
Construction / South / Chennai,
O/o. The Chief Administrative Officer,
Construction, Southern Railways,
Egmore, Chennai – 600 008.
- 4.The Deputy Chief Engineer,
Gauge Conversion/II, Southern Railways,
Thiruchirapalli.
- 5.The Financial Advisor and Chief Accounts Officer,
Construction, Southern Railways,
Egmore, Chennai – 600 008.
- 6.The Assistant Executive Engineer,
O/o. Assistant Executive Engineer,
Construction, Tiruvarur.



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7.The Assistant Financial Advisor,
O/o. The Assistant Financial Advisor,
Construction, Mc.Donalds Road,
Thiruchirapalli – 620 001.

8.The Chief Manager,
Canara Bank, 31, 1st Main Road,
Yelahankha Satellite Town,
Bangalore – 560 064.

.. Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorarified mandamus to call for the records pertaining to the impugned order passed by the 3rd respondent herein in his proceedings in No.W.148/TTNK/306/CN dated 20.12.2022 and consequential impugned order passed by the 7th respondent herein in his proceedings in NO.W.496/CN/TPJ/XC Bills/1713 dated 01.02.2023 and quash the same and consequently direct the respondents to permit the petitioner company herein to resume the work in proposed new broad gauge line connecting Nagapatinam and Thithuraipoondi (via) Thirukuvalai – earth work informing, bank, construction minor bridges and limited use sub ways from ch-13000 to ch-18000 between Nagapatinam and Thirukuvalai as per contract agreement No.38/CN/2014 dated 07.05.2014.

For Petitioner : Mr. Rajnish Pathiyil

For Respondents : Mr. AR.L.Sundaresan
Additional Solicitor General
assisted by
Mr.M.Ramamoorthy
for R1 to R7

ORDER

On the earlier occasion, learned counsel for the petitioner had sought reference of the dispute inter se the parties, to arbitration. The only hurdle related to the arbitrability or otherwise of the dispute, seeing as the contract has been terminated. To be noted that, Clause 63 of



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agreement dated 07.05.2024 stipulates that termination of agreement would be construed to be an exception to arbitration.

2. Today, the respondent files a memo acceding to the request of the petitioner. The memo reads as follows:-

"1.The respondents submit that they accept the proposal of the petitioner for referring the dispute arising out of the Agreement No.38/CN/2014 dated 07.05.2024 which is the subject matter of the present writ petition in WP No.5241/2023 for adjudication through arbitration.

2.The respondents accept the proposal of the writ petitioner for appointment of Shri R.Sankaranarayanan, Senior Advocate as Sole Arbitrator to enter upon the reference and adjudicate the dispute.

3. The respondent state that all issues arising between the parties may be decided by the Arbitrator within the frame work of GCC and Arbitration and Conciliation Act, 1996. There shall be no objection with regard to excepted matter under Clause 63 of GCC.

4. All contentions of both the parties may be left open to be decided by the Arbitrator."

3. Recording the joint concurrence of parties, this matter is referred to arbitration, by Mr.R.Sankaranarayanan, Senior Advocate. Learned Arbitrator is requested to take the matter forward from here onwards including fixation of the terms of appointment and venue of arbitration. Mr.Pathiyil raises the issue of interim relief and can always approach the learned Arbitrator with such a prayer in terms of Section 17 of the Arbitration and Conciliation Act, 1996.



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4. Recording the above, this writ petition and connected miscellaneous petitions are closed. No costs.

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Index:Yes/No
Neutral Citation:Yes
ssm

To

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