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Arb.Appln.No.438 of 2024

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in
O.A.No.61 of 2024

G.K.ILANTHIRAIYAN, J.

This application has been filed to punish the first respondent for willful disobedience of the order passed by this Court dated 11.03.2024 in O.A.No.61 of 2024.

2. The applicant was declared as successful bidder by the respondent on 18.03.2023 for hiking reach stackers at ICD/TNPM, Chennai. After receiving letter of acceptance dated 21.06.2023, the applicant has begun performance of the contract for a period of 5 years with an annual estimated cost of approximately Rs.8.18 crores per annum including GST. Whatever the work performed by the applicant is being uploaded in the online portal operated by the respondent. While being so, on 03.10.2023, an intoxicated mob consisting of representatives of the previous contractor entered the premises and created ruckus, due to which, the work was completely stopped. Thereafter, due to subsequent various other mob activities, the applicant was able to commence the work only from 21.12.2023. Subsequently, the applicant filed O.A.Nos.59, 60, 61 and 62 of 2024 seeking following reliefs:-



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--> *Interim injunction restraining the respondent from acting or giving effect to or enforcing letters dated 16.12.2023, 19.12.2023 and 01.01.2024;*

--> *Interim injunction granting safe access to the premises;*

--> *Interim injunction ensuring the safety and security of the applicant's employees during the course of their work; and*

--> *Interim injunction seeking preservation and production of CCTV footage of the incident.*

3. This Court, by its order dated 11.03.2024, while allowing the aforesaid applications, appointed a sole arbitrator to resolve the dispute between the parties. In the said order, learned counsel for the respondent submitted that there is no dispute as there is no proposal to recover any amount from the respondents. Considering the submission of the learned counsels appearing on either side, this Court appointed the sole arbitrator.

4. Subsequent to the order passed by this Court, the applicant raised bills for the subsequent period of contract and in the bills raised by



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the applicant, they deducted a sum of Rs.11,86,448/- as penalty.

Therefore, the applicant has filed this contempt application to punish the respondent for not implementing the order passed by this Court on 11.03.2024.

5. As stated above, in the common order passed by this Court in O.A.Nos.59 to 62 of 2024, dated 11.03.2024, this Court recorded the submission of the learned counsel for the respondent that there is no dispute as there is no proposal to recover any amount from the respondents, and it is submitted that the applicant ought to have invoked the arbitration clause. Though this Court, after recording the submission of the parties, appointed the sole arbitrator, it is observed that it is open to the parties to file fresh application under Section 17 of the Arbitration and Conciliation Act for appropriate interim relief. Pursuant to the order passed by this Court, the applicant has filed a petition under Section 17 of the Arbitration and Conciliation Act and the learned Arbitrator, vide order dated 18.05.2024, restrained the respondent from deducting or withholding any amount from the monthly bills of the claimant until further orders. Though on the date of the order passed by this Court appointing the sole arbitrator, there was no proposal to impose penalty,



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subsequently, in the invoice raised by the applicant dated 31.03.2024, the respondent imposed penalty to the tune of Rs.11,86,448/-. That apart, this Court has not passed any order preventing the respondent from imposing any penalty, and on the contrary, by the consent of both the parties, this Court had appointed only the arbitrator to resolve the dispute between the parties.

6. In view of the above, this Court is of the considered view that no case for proceeding against the respondent for contempt was made out. Accordingly, finding no merit, this application is dismissed.

21.10.2024

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