



WEB COPY



OSA No.35 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.06.2024

CORAM

THE HONOURABLE MR.JUSTICE **M.SUNDAR**
and
THE HONOURABLE MRS.JUSTICE **K.GOVINDARAJAN THILAKAVADI**

O.S.A.No. 35 of 2022
and
C.M.P.No.2769 of 2022 in O.S.A.No.35 of 2022

M/s.G.G. Hospitals rep. By its
Sole Proprietor Kamala Selvaraj,
6E, Nungambakkam High Road,
Nungambakkam, Chennai – 600 034.

.. Appellant

Vs

1.M/s.Ascent Engineers & Infrastructures
India Pvt. Ltd.,
(formerly M/s.Ascent Engineers,
a Partnership Firm) rep. By its
Managing Director Srinivasan S.Iyer,
No.12, 46th Street, 9th Avenue,
Ashok Nagar, Chennai – 600 089.

2.M/s.Larsen & Toubro Limited,
Mount Poonamallee Road,
Manapakkam, Chennai – 600 089.

.. Respondents

Original Side Appeal filed under Section 37(1)(C) of The
Arbitration and Conciliation Act, 1996 r/w Order XXXVI Rule 1 of
Original Side Rules against the order dated 07.10.2021 made in
O.P.No.460 of 2017.

For Appellant : Mr.M.Santhanaraman
and Ms.Tamilselvi Santhanaraman

For Respondent :Mr.V.Kuberan
for M/s.Rank Associates for R1
Ms.Preethi Mohan for R2



OSA No.35 of 2022

JUDGMENT

(Judgment of the Court was delivered by **M.Sundar, J.**)

WEB COPY

This common order will now dispose of captioned 'Original Side Appeal' (hereinafter 'OSA' for the sake of brevity) and captioned 'Civil Miscellaneous Petition' (hereinafter 'CMP' for the sake of brevity) thereat.

2. Captioned OSA is an intra-court appeal and it is a statutory appeal inter-alia under Section 37 of 'The Arbitration and Conciliation Act, 1996 (Act 26 of 1996)' (hereinafter 'A and C Act' for the sake of convenience and clarity) assailing an order dated 07.10.2021 made in O.P. No.461 of 2017 by a Section 34 Court dismissing a Section 34 OP and confirming an 'arbitral award dated 14.04.2017 (corrected on 20.04.2017)' (hereinafter 'impugned award' for the sake of convenience and clarity). The order of Section 34 Court is dated 07.10.2021 and the same shall be referred to as 'impugned order'.

3. Pending captioned OSA, Hon'ble Predecessor Benches have made more than one order qua stay of impugned award.

4. Captioned matter is listed under the cause list caption 'FOR RECORDING COMPROMISE' today. Mr.M.Santhanaraman along



OSA No.35 of 2022

with Ms.Tamil Selvi Santhanaraman, counsel for appellant, Mr.V.Kuberan of M/s.Rank Associates for first respondent and Ms.Preethi Mohan for second respondent are before us.

5. As regards the appellant, learned counsel has filed a memo dated 11.06.2024 and a scanned reproduction of the same is as follows:

IN THE HIGH COURT OF JUDICATURE AT MADRAS
(CIVIL APPELLATE JURISDICTION)

O.S.A. No. 35 of 2022
in

1. G.G.Hospital,
Rep., by its Director,
Dr.Kamala Selvaraj,
No.6E, Nungambakkam High Road,
Chennai – 600034

.....Appellants

Vs

M/s.Ascent Engineers and infrastructures India Pvt Ltd

.....Respondent

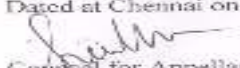
MEMO FILED BY THE APPELLANT

The appellant respectfully submits as follows:-

The appellant states that they have paid a sum of Rs 6.70 Crores to the Respondent herein towards the amount covered under the impugned arbitral award vide Cheque dated 1.3.2024 bearing No383472 drawn on HDFC Bank, Anna Salai Branch and thus the case is settled out of Court.

The appellant therefore prays that they may be permitted to withdraw this appeal as case is settled out of Court and thus render justice.

Dated at Chennai on this 11th day of June 2024


Counsel for Appellant



WEB COPY



OSA No.35 of 2022

HDFC BANK WE TRANSACT NOT TRANSFER **MANAGER'S CHEQUE**
VALID FOR 3 MONTHS ONLY

01032024
00000000000000000000

ASCENT ENGINEERS AND INFRASTRUCTURES INDIA PVT.LTD

Pay
to the order of
Rupees SIX CRORE SEVENTY LAKH ONLY
₹ 67,00,00,000.00

G.G.HOSPITAL
HC CENTRE ANNA SALAI
CHENNAI - 600002
REF. No. 000412170008

FOR VALUE RECEIVED

[Signature]
AUTHORIZED SIGNATURE

#383472# 600240002# 999989# 62

Int case on 12/6/24.
MSS & KATS: P

HIGH COURT :MADRAS
O.S.A. No. 35 of 2022
G.G.Hospital, Appellant
Vs
M/s.Ascent Engineers and
Infrastructures India
Pvt Ltd.
.....Respondent

MEMO FILED BY THE
APPELLANT

19546

11 JUN 2024
RECEIVED
HIGH COURT OF JUDICATURE
MADRAS

M/s. M.Santhanaraman, 70/1, 1st
Tamilselvi Santhamaraman, 10/25, 1st
T. Moorthy, 34/25, 1st
Counsel for Appellant
98401 40473



OSA No.35 of 2022

6. Learned counsel has also made endorsements in the case file and the same are as follows:

The Appellant may be permitted to withdraw the Appeal.

Tamilselvi

(TAMILSELVI S

Ms. NO. 2062/2015)

12/06/24

CMP No. 2769 of 2022

The Appellant may be permitted to withdraw the Appeal and the consequent M.P.

Tamilselvi
12/06/24

(TAMILSELVI S

Ms. NO. 2062/2015)

The above gives quietus to the captioned matter.



OSA No.35 of 2022

WEB COPY

7. Be that as it may, adverting to the aforementioned orders made by Hon'ble Predecessor Benches regarding interim stay of impugned award, Mr.V.Kuberan drew our attention to proceedings/orders dated 10.03.2022, 23.06.2022 and 08.07.2022 made in CMPs in captioned OSA. It may not be necessary to advert to the orders in detail as there is absolute consensus as between learned counsel for appellant and learned counsel for first respondent that of the monies deposited by the appellant as condition for stay of impugned award, Rs.50 lakhs has already been withdrawn by first respondent without security, that the remaining has been withdrawn by furnishing security in the form of bank guarantee and the letter of the issuing bank under cover of which the bank guarantee was issued (letter dated 11.08.2023) is as follows:



WEB COPY



OSA No.35 of 2022

यूनियन बैंक Union Bank of India



CHENNAI-ASHOK NAGAR BRANCH-3, 58, 1ST Avenue, Chennai-600083

Tel No.044-23718685, E-Mail ubin0906780@unionbankofindia.bank

(Address of the controlling office)

Union Bank of India

No.58, I Avenue, Ashok Nagar Branch-3

Chennai-600083

This covering letter is issued to be annexed to the letter of Guarantee No. 05782IGL0002622(Renewal of BG) Dated 10-08-2023 M/S ASCENT ENGINEERS & INFRASTRUCTURES INDIA PVT LTD for an amount of Rs 6024982.00(Rupees Sixty lakh twenty four thousand nine hundred and eighty two. Only) valid till 09-08-2024 issued by this office under the joint signature of

- 1) Mr./Ms./Mx -NG. Rekha -638706 - Senior Manager
- 2) Mr./Ms./Mx- Jayapriya P- 709311 - Manager

Confirmation of this guarantee, if the same is desired, should be obtained from the controlling office named above.

यूनियन बैंक ऑफ इंडिया
For Union Bank of India

Signature:

नाम / Manager
ब्रांच नं-3 / Ashok Nagar-3 Br.
चेन्नई / Chennai-600 083.

Name:

Jayapriya P

Designation:

Manager

Date:11-08-2023

Beneficiary's name & address:

THE HONOURABLE HIGH COURT

HIGH COURT OF JUDICATURE AT MADRAS

CHENNAI - 600 108

TAMILNADU

8. There is no dispute or contestation that a sum of Rs.6.70 crores paid now by the appellant is balance after giving credit to Rs.50 lakhs and the money withdrawn by first respondent by furnishing bank guarantee.



OSA No.35 of 2022

WEB COPY

9. In the aforesaid scenario, Mr.V.Kubera made a request to make a directive to the Registry qua discharge of the aforementioned bank guarantee so that, it will save the tedious task of taking out one more CMP where there will be no contest. To be noted, as regards the facts recorded thus far, there is no disputation or contestation as between the learned counsel for appellant and learned counsel for first respondent. Learned counsel for second respondent submits that second respondent is only a Consultant qua contract and therefore only a formal party to the entire proceedings owing to which, the second respondent has nothing to say.

10. In the light of the narrative thus far, we deem it appropriate to direct the Registry to discharge the aforementioned bank guarantee so that security is returned to the counsel on record for first respondent under due acknowledgment as expeditiously as the business of the Registry would permit but in any event within four weeks from today i.e., by 10.07.2024 subject only to learned counsel on record for first respondent following the prescribed procedure and complying with all requirements under the prescribed procedure.



OSA No.35 of 2022

WEB COPY

11. Captioned OSA and captioned CMP thereat are disposed of as closed/withdrawn albeit with the aforementioned directive regarding return of security to first respondent. There shall be no order as to costs.

(M.S.J.) (K.G.T.J.)
12.06.2024

Index:Yes/No
Neutral Citation: Yes/No
mmi

To

The Sub Assistant Registrar,
Original Side, High Court,
Madras.



WEB COPY



OSA No.35 of 2022

**M.SUNDAR.J.,
and
K.GOVINDARAJAN THILAKAVADI, J.,
mmi**

O.S.A No.35 of 2022

12.06.2024