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C.M.P.No.21388 of 2022 in  
O.S.A.(CAD).No.163 of 2022

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M.SUNDAR, J.  
AND  
K.GOVINDARAJAN THILAKAVADI, J.

[Order of the Court was made by M.SUNDAR, J.]

Captioned 'Civil Miscellaneous Petition' (hereinafter 'CMP' for the sake of brevity) has been filed with a prayer seeking interim stay of an Arbitral Award dated 05.05.2019 made by an Arbitral Tribunal constituted by a Sole Arbitrator who is a former Hon'ble Judge of this Court. 'Arbitral Tribunal' shall be referred to as 'AT' for the sake of brevity.

2. 'Capco Water Solutions Private Limited' ('CWSPL' for the sake of brevity) is the contractor and 'Bharath Heavy Electricals Limited' ('BHEL' for the sake of brevity) is the employer.

3. A dispute arose between the employer and contractor pertaining to a contract for main supply of Electrolytic Chlorination Plant for a 2 x



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600 M.W. North Chennai TPS Units 1 & 2.

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4. AT after full contest passed an award dated 05.05.2019 ('Award under challenge' for the sake of convenience and clarity) awarding a little over Rs.1.07 Crores (Rs.1,07,95,570/- to be precise) in favour of the contractor together with 12% *pendente lite* interest i.e., at the rate of 12% per annum from 01.01.2014 till the date of award (05.05.2019) besides saying that the contractor is entitled to recover Rs.32,90,700/- under another head and the AT has also awarded future interest at the rate of 18% per annum from the date of award till the date of realisation of the full award amount.

5. The aforementioned award under challenge was assailed by BHEL by way of a Petition under Section 34 of 'The Arbitration and Conciliation Act, 1996 (26 of 1996)' (hereinafter 'A & C Act' for the sake of brevity) vide O.P.No.799 of 2019 and Hon'ble Single Judge in and by an order dated 11.10.2022 dismissed the challenge to the Arbitral Award and captioned OSA(CAD) has been filed assailing this 11.10.2022 order of Hon'ble Single Judge.



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6. Captioned OSA has been filed in this Court on 25.11.2022 and captioned CMP has been taken out along with the OSA with a prayer for interim stay of the Award under challenge i.e. Arbitral Award dated 05.05.2019. The reason for this prayer is, the contractor has already launched an Execution Petition vide E.P.No.12 of 2020 on the file of the learned Master of this Court and the same is pending.

7. In the aforementioned circumstances, captioned main OSA is being heard out with Mr.Krishna Srinivasan, learned Senior Counsel instructed by Ms.Geethi Ara of M/s.S.Ramasubramaniam Associates (Law Firm) for BHEL (employer) and Ms.Preeti Mohan along with Ms.R.S.Poornima, learned counsel on record for CWSPL (contractor).

8. Captioned CMP has been pending in this Court from 2022 and we are informed that aforementioned EP is being adjourned from time to time citing pendency of captioned OSA (though there is no stay), now the main OSA is being heard out, disposal is in the anvil and therefore it is only appropriate to say that aforementioned EP being E.P.No.12 of 2020



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on the file of learned Master shall be kept in abeyance until disposal of captioned main OSA i.e., O.S.A.(CAD).No.163 of 2022 and though obvious we make it clear that further proceedings in the Execution Petition will be subject to the outcome of OSA(CAD).No.163 of 2022.

9. It is made clear that under normal circumstances, a conditional order would have been the norm but this is in the peculiar facts and circumstances and trajectory the matter has taken and the way it is poised now.

10. Captioned CMP is disposed of in the aforementioned manner with the abovementioned observation. There shall be no order as to costs.

[M.S.J.] [K.G.T.J.]

01.04.2024

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