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Arb.O.P.(Comm.Div.) No.534 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.12.2024

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THE HONOURABLE MR.JUSTICE P.B.BALAJI

Arb.O.P.(Comm.Div.) No.534 of 2024

SEW-NCILLP Joint Venture,
C/o.M/s.SEW Infrastructure Limited 6-3-871,
Snehalatha, Greenlands Road, Begumpet,
Hyderabad -500 016 Telangana State,
Represented by Power of Attorney,
Mr.G.Ramesh

... Petitioner

VS.

Rail Vikas Nigam Limited (RVNL),
Mezzanine Floor, Tirumailai Railway Station,
Mylapore, Chennai – 600 004.

... Respondent

PRAYER: Arbitration Original Petition filed under Section 11(6) of the Arbitration and Conciliation Act, 1996 to appoint a third arbitrator that this Court may deem fit in the arbitration on going between the Petitioner and Respondent.

For Petitioner : Mr.Anand Venkataramani for
M/s.SM.Vivekanandh

For Respondent : Ms.Aparajitha Vishwanath



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ORDER

This Arbitration Original Petition has been filed under Section 11(6) of the Arbitration and Conciliation Act, 1996 (hereinafter called as 'the Act') to appoint a third arbitrator to adjudicate the disputes between the Petitioner and Respondent.

2. I have heard Mr.Anand Venkataramani, learned counsel for Mr.SM.Vivekanandh, learned counsel for the petitioner and Ms.Aparajitha Vishwanath, learned counsel for the respondent.

3. This Court vide order dated 14.12.2024, with the consent of the parties, appointed the Arbitral Tribunal comprising of Hon'ble Mr.Justice Sanjay Kishan Kaul, Former Judge of the Supreme Court as the Presiding Arbitrator and Mr.Justice. D.S.R.Varma, Former Judge of Telangana High Court and Mr.M.Ravindra, Retired Chairman, were appointed as nominee arbitrators of the respondent. However, by e.mail dated 04.03.2024, the Presiding Arbitrator, Mr.Justice Sanjay Kishan Kaul, Former Judge of the Hon'ble Supreme Court expressed his inability to accept the assignment and recuse himself. Similarly, the respondent's nominee arbitrator,



Mr.M.Ravindra, Retired Chairman also by e.mail dated 06.03.2024, recuse himself for personal reasons. This Court thereafter, by order dated 20.03.2024 appointed one Mr.V.Somasundaram, Retired Principal, Chief Engineer, Southern Railway as the nominee arbitrator for the respondent. The nominee arbitrators of the petitioner and the respondent appointed Mr.Justice Asok Kumar Ganguly, Former Judge of the Hon'ble Supreme Court as Presiding Arbitrator by Minutes dated 08.08.2024.

4. During the pendency of the proceedings, the petitioner challenged the appointment of Mr.V.Somasundaram, Retired Principal, Chief Engineer, Southern Railway as the co-arbitrator, by order dated 08.10.2024, the Arbitral Tribunal ruled upon the said challenge and held that Mr.V.Somasundaram, Retired Principal, Chief Engineer, Southern Railway was not eligible to continue as an Arbitrator. In view of the same, the present Original Petition has been preferred for appointment of the respondent's nominee arbitrator.

5. Both the learned counsel appearing for the petitioner and the respondent suggested names of Retired Judges of the Hon'ble Supreme



Court as well as the High Court to be nominated as the respondent's nominee arbitrator.

6. I find from the records that the learned counsel for the respondent has already sought for the consent from Hon'ble Justice R.Banumathi, Former Judge of the Supreme Court of India and the learned Judge has also expressed her willingness to be the nominee of the respondent.

7. Considering the above, I hereby appoint Hon'ble **Mrs.R.Banumathi, (Retired) Former Judge of the Hon'ble Supreme Court of India, having address at A-417, Second Floor, Block A, Defence Colony, New Delhi -110 024 (Mobile Number – 70429 55477 & Landline:011-45638163) Email id: banumathir1955@gmail.com** as nominee arbitrator/co-arbitrator.

8. Accordingly, this Arbitration Original Petition is allowed.

13.12.2024

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Index : Yes / No

Internet : Yes / No



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