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Arb.O.P. (Com.Div.) No.11 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.02.2024

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THE HONOURABLE MR.JUSTICE C.SARAVANAN

Arb.O.P.(Com.Div.)No.11 of 2024

Offshore Infrastructures Limited,
Represented by its authorized signatory, Provash Tripathy,
22, Udyog Kshetra, Mulund Link Road, Mulund (W),
Mumbai – 400 080. .. Petitioner

Vs.

1.Bharat Heavy Electricals Limited,
Power Sector – Southern Region,
690, Anna Salai, Nandanam, Chennai – 600 035.

2.Shri. B.P.Bheemanna, Retd. GM (BHEL DN),
No.4, Model House List, Basavangudi,
Bangalore – 560 064. .. Respondents

Prayer: Original Petition is filed under Sections 14(1)(a) and 14(1)(b) read with Section 15 of the Arbitration and Conciliation Act, 1996, praying to confirm the termination of the mandate of the learned Arbitrator and may be pleased to appoint a suitable person as Sole Arbitrator in the matter in place of the earlier Sole Arbitrator, Shri B.P.Bheemanna, to adjudicate upon the disputes and differences between the parties.

For Petitioner	:Mr.K.Gowtham Kumar
For R1	:Mr.Karthik Ram Mohan for M/s.Ramasubramaniam & Associates



ORDER

This Original Petition has been filed under Sections 14(1)(a) and 14(1)(b) read with Section 15 of the Arbitration and Conciliation Act, 1996 to confirm the termination of the mandate of the learned Arbitrator and to appoint a suitable person as a Sole Arbitrator in the matter in place of the earlier Sole Arbitrator, Shri B.P.Bheemanna, to adjudicate upon the disputes and differences between the parties.

2.This Original Petition has been filed under Sections 14(1)(a) and 14(1)(b) read with Section 15 of the Arbitration and Conciliation Act, 1996 to terminate the mandate of the learned Arbitrator as he has expressed his desire to withdraw from the Arbitral proceeding vide e-mail dated 19.10.2021.

3.The respondents had requested the learned Arbitrator to reconsider the decision by an e-mail dated 21.10.2021. However, the learned Arbitrator has not relented from the stand taken in the e-mail dated 19.10.2021. The learned Arbitrator was appointed by this Court vide its order dated 09.12.2016 in O.P.No.466 of 2016. The said decision was rendered before the Hon'ble Supreme Court in Perkins Eastman case.



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4.The order of this Court dated 09.12.2016 in O.P.No.466 of 2016 was also upheld by the Hon'ble Supreme Court by its order dated 11.05.2018. Be that as it may, since the learned Arbitrator has desired to withdraw from the Arbitral proceedings, Court is of the view that this is a fit case for terminating the mandate of the Arbitrator who was presiding with the case and appoint a new Arbitrator.

5.Considering the nature of dispute involved, Court is inclined to appoint **Hon'ble Mr.Justice F.M.Ibrahim Kalifulla, Former Judge, Supreme Court of India, (Mobile No. 75500 48928)** residing at **No.22, Sivananda Road, Gill Nagar Extn., Choolaimedu, Chennai – 600 094** as the sole Arbitrator to enter upon reference and adjudicate / resolve the *inter se* dispute between the parties strictly in accordance with the provisions of the Arbitration and Conciliation Act, 1996.

6.The newly appointed Arbitrator shall proceed with the Arbitral proceedings from the stage at which the proceeding was before the earlier Arbitrator.



7.The parties may re-construct their files and furnish the same before the newly appointed Arbitrator.

8.Registry is directed to send a note to the learned Arbitrator who has recused himself from the proceeding, viz., Shri. B.P.Bheemanna, the 2nd respondent herein to transmit all the records that are available with him to the newly appointed Arbitrator. The parties are directed to settle all the pending fees if any payable to Shri. B.P.Bheemanna, the 2nd respondent herein.

9.The learned Arbitrator appointed herein, shall after issuing notice to the parties and upon hearing them, endeavour to complete the arbitral proceedings and pass an award strictly in accordance with the provisions of the Arbitration and Conciliation Act, 1996, as expeditiously as possible, preferably within a period of twelve months after the date of completion of pleadings under Sub-Section 4 to Section 23 as is contemplated in Section 29-A of the Arbitration and Conciliation Act, 1996, without getting influenced by any of the observations made by this Court in this order.



10.The learned Arbitrator appointed herein shall be paid fees and other incidental charges as may be fixed with the consent of parties or in accordance with the provisions of the Arbitration and Conciliation Act, 1996, and the same shall be borne by the parties equally. In case, the respondents remain *ex parte*, the petitioner shall pay the entire fee and other incidental charges to the Arbitrator and later recover the same from the respondents.

11.Since the Court has appointed an Arbitrator, it is open to the petitioner as well as the respondents to seek other reliefs under Section 17 of the Arbitration and Conciliation Act, 1996, before the learned Arbitrator.

12.The Original Petition is allowed with the above observations, leaving the parties to bear their own costs.

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Index : Yes / No
Internet : Yes / No
Neutral Citation : Yes / No



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C.SARAVANAN, J.

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