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Arb.O.P.(Com. Div.) No.104 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.04.2025

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THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

Arb.O.P.(Com. Div.) No.104 of 2025

and

A. No.2063 of 2025

Tamil Nadu Water Supply and Drainage Road,
Rep. by its Managing Director / The Project Chief Engineer,
No.8, First Main Road,
Gandhi Nagar, Vellore - 632 006. ... Petitioner

Vs.

IVRCL - CADAGUA Hogenakkal,
Water Treatment Company Pvt. Ltd.,
(A Joint venture company between
IVRCL Infrastructure and Project Ltd. and
Cadagua S.A.),
Having their office at:
Madam Village, Cauvery Road,
Pennagaram Taluk, Dharmapuri District,
Tamil Nadu. ... Respondent

PRAYER: Petition filed under Section 11 of the Arbitration and Conciliation Act, 1996 to appoint arbitrator(s) to adjudicate the dispute between the petitioner and the respondent in terms of the Form of Agreement dated 19.02.2010.

For Petitioner : Mr. A. Abdul Hameed
Senior Counsel
assisted by
Mrs. S. Mekhala



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For Respondent : Mr.Jayant J.R.

ORDER

This petition has been filed under Section 11 of the Arbitration and Conciliation Act, 1996, for appointment of an Arbitrator by this Court.

2. A preliminary objection has been raised by the respondent through their counter, stating that the present petition is not maintainable since in respect of the very same cause of action, the respondent has already initiated arbitration and an arbitrator has already been appointed by this Court under Section 11 of the Arbitration and Conciliation Act. However, the learned senior counsel appearing for the petitioner would submit that the arbitration initiated by the respondent, which is pending before the arbitrator has been initiated against a wrong respondent and the learned senior counsel appearing for the petitioner would submit that the claim should have been made by the respondent against the Tamil Nadu Water Supply and Drainage Road (TWAD Board) represented by its Managing Director, but, instead, the arbitral claim has been made by the respondent against the Project Chief Engineer, who is not the competent person against whom the arbitral claim



can be made.

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3. The Learned counsel for the respondent has placed on record the memo filed by the respondent / claimant before the arbitrator, who has already been appointed by this Court in respect of the very same cause of action and would point out that as seen from the memo, the respondent has sought for a direction from the arbitrator to permit the respondent to amend the name of the respondent in the arbitration as TWAD Board, represented by its Managing Director / Project Chief Engineer, which will satisfy the requirements of the petitioner in this petition. Since the respondent has satisfied the requirements of the petitioner, the question of once again considering the application under Section 11 of the Arbitration and Conciliation Act through this petition, does not arise.

4. In view of the same, when it is an admitted fact that the cause of action for this petition as well as the earlier petition filed by the respondent under Section 11 of the Arbitration and Conciliation Act in which this Court has already appointed an arbitrator, are one and the same, and since the respondent has agreed to amend the cause title by making the TWAD



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Board, represented by its Managing Director / Project Chief Engineer as the respondent, there is no necessity for this Court to decide this petition, as an arbitrator has already been appointed to adjudicate the very same dispute that has been raised in this petition.

5. For the foregoing reasons, this petition and the connected application are closed. However, liberty is granted to both the parties to raise all objections before the arbitrator Hon'ble Mr. Justice K.Venkataraman, Former Judge, Madras High Court, who was appointed as the arbitrator by this Court's order dated 29.08.2024 in Arb. O.P. (Com. Div.) No.257 of 2024 either through an application filed under Section 16 of the Arbitration and Conciliation Act or through the statement of defence filed by the petitioner and the arbitrator shall decide those petitions on merits and in accordance with law.

22.04.2025

Index : Yes/No
Speaking Order : Yes / No
Neutral Citation Case: Yes / No
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ABDUL QUDDHOSE. J.,

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