



O.A. No.417 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on: 31.01.2025

Pronounced on: 17.02.2025

CORAM

THE HONOURABLE MR.JUSTICE P.B.BALAJI

O.A. No.417 of 2024

Geo Foundations & Structures Private Limited,
Rep. by its Managing Director P N Ravi,
No.89, 1st Main Road, Gandhi Nagar,
Adyar, Chennai – 600 020.

..Applicant

Vs

1.Nuberg Engineering Limited,
Rep by Romesh K Sharma,
Head -Energy & Infrastructures
Business, 204, Second Floor,
Vardhaman Sunrise Plaza,
Vasundhra Enclave,
Delhi -110 096.

2.The Branch Manager,
Union Bank of India,
Besant Nagar Branch,
Chennai – 600 020.

...Respondents

PRAYER: This Original Application is filed under Order XIV Rule 8 O.S. Rules read with Section 9(1)(ii)(d) of the Arbitration and Conciliation Act, 1996 to grant an order of ad interim injunction restraining the 1st respondent from invoking the bank guarantee bearing No.527201GL0000723 dated



O.A. No.417 of 2024

31.01.2023 for a sum of Rs.70,85,634 and another Bank guarantee for a sum of Rs.75,00,000/- dated 31.01.2023 bearing No.527201GL0000623 furnished by the applicant with the 2nd respondent.

For Applicant : Mr.K.S.Jeyaganeshan

For Respondents : Mr.S.Sathyanarayanan for R1
No Appearance for R2

ORDER

This Section 9 Application has been filed for an interim injunction restraining the 1st respondent from invoking the bank guarantee bearing No.527201GL0000723 and for a sum of Rs.70,85,634 and another Bank guarantee for a sum of Rs.75,00,000/-, bearing No.527201GL0000623 both dated 31.01.2023, furnished by the applicant with the 2nd respondent.

2. I have heard Mr.K.S.Jeyaganeshan, learned counsel for the Applicant and Mr.Sathyanarayanan, learned counsel for the first respondent.

3. The learned counsel for the Applicant would submit that the



Applicant has seriously and bonafide negotiated with the first respondent for an amicable settlement and he would invite my attention to the claim statement made by the Applicant in furtherance of a meeting held with the Officials of the first respondent towards settling the matter. He would also submit that the Applicant's intention is to amicably resolve the dispute and not litigate and he would therefore seek for the interim order being extended and further time being granted to enable the Applicant to reach a settlement with the first respondent.

4. However, Mr.Sathyanarayanan, learned counsel for the first respondent would vehemently oppose the request of the Applicant stating that the settlement talks were mooted way back in September 2024 and there has been absolutely no progress and that the learned counsel for the first respondent has instructions that there is no settlement possible. He would therefore pray for the interim injunction granted by this Court on 25.06.2024, being vacated on the limited ground that this Court has no jurisdiction to entertain the Section 9 Application.

5. He would invite my attention to the Commercial Terms and



Conditions dated 27.01.2023, Clause 15.4 fixes the venue for Arbitration as Noida (Uttar Pradesh). Clause 25.8 subjects disputes arising out of the contract to Courts in Noida (Uttar Pradesh). Therefore, he would submit that the jurisdiction Clause is very clear and the venue has also been agreed to Noida (Uttar Pradesh) and therefore, the Application before this Court is not maintainable. He would further submit that it is always open to the Applicant to settle the matter, if really the Applicant is interested, in which event, there would be no necessity for the parties to even resort to Arbitration and only because of the total inaction on the part of the Applicant, the first respondent is necessitated to oppose the Application and press for vacating of the interim order.

6. I have carefully considered the submissions advanced by the learned counsel for the Applicant and I have also gone through the Arbitration Agreement between the parties.

7. The parties have clearly agreed upon the Courts in Noida (Uttar Pradesh) to have jurisdiction to try disputes arising out of the contract between the parties. The parties have also, under Clause 15.1, agreed upon



O.A. No.417 of 2024

the venue of Arbitration to be Noida (Uttar Pradesh). In such view of the matter, the Section 9 Application before this Court is clearly not maintainable and liable to be dismissed. It is always open to the Applicant to approach the first respondent and amicably settle the disputes and however, it cannot be under the teeth of an interim order obtained from this Court, when this Court lacks inherent jurisdiction to even entertain this Section 9 Application. Thus, I am constrained to vacate the interim order granted by this Court on 25.06.2024.

8. In fine, this Original Application is dismissed.

17.02.2025

rkp

Index : Yes / No

Internet : Yes / No



WEB COPY



O.A. No.417 of 2024

P.B.BALAJI, J.,

rkp

Pre-delivery Order in
O.A. No.417 of 2024

17.02.2025