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Arb O.P(COM.DIV.) No. 5
of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03-11-2025

CORAM

THE HONOURABLE MR JUSTICE N. ANAND VENKATESH

Arb O.P(COM.DIV.) No. 536 of 2025

M/s. Surender Singh Chauhan
Infrastructure Private Limited
(Earlier known as M s S S Chauhan and
Sons)
3rd floor, 304, Surya complex,
21 Veer Savarkar Block, Shakapur,
East Delhi, Delhi 110092
Corporate office 495, Sector 21A,
Faridabad-121001.

Petitioner

Vs

Central Public Works Department (C.P.W.D)
Ministry of Housing and Urban Affairs
Government of India
Rep by its Executive Engineer (Trichy-II)
IIM Campus, Trichy-620024

Respondent

PRAYER

To allow the instant Petition under Section 11 of the Arbitration and Conciliation Act, 1996 appoint an independent and impartial Sole Arbitrator to resolve the dispute between the Petitioner and the Respondent



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For Petitioner: Mr.Vijay Kumar for
Mr.N.Ravishankar Vallatharasu
Sandeep Singh Mahar

For Respondent: Mr.R.Rajesh Vivekananthan
Deputy Solicitor General of India

ORDER

This original petition has been filed under Section 11(6) of the Arbitration and Conciliation Act, 1996 for appointment of an Arbitrator to adjudicate the disputes between the petitioner and the respondent arising out of the Letter of Award dated 12.01.2022.

2. When this petition came up for hearing on 04.09.2025, this Court passed the following order:-

“This petition has been filed seeking for appointment of sole Arbitrator to adjudicate the dispute between the petitioner and the respondent.

2. The petitioner entered into a contract with the respondent pursuant to the Letter of Award dated 12.01.2022. Pursuant to the same, the petitioner mobilized resources and commenced the work. However, the project was delayed due to various reasons, which according to the petitioner, is not attributable to the petitioner. In spite of several communications sent by the petitioner to finalize/approve and obtain clearances, there was no response from the respondent. Ultimately, a show cause notice was issued by the respondent dated 10.06.2025 alleging delay in completion and for levy of compensation against the



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petitioner. The petitioner also filed an application under Section 9 of the Arbitration and Conciliation Act, 1996, [for brevity 'the Act'] before the Principal District Judge, Tiruchirappalli and the said application is pending.

3. As disputes and differences have arisen between the petitioner and the respondent, the petitioner chose to refer the matter for arbitration. As per the General Conditions of the Contract, Clause 25 contemplated settlement of disputes and arbitration. Accordingly, the trigger notice under Section 21 of the Act dated 26.06.2025 was issued by the petitioner for appointment of Arbitrator. Since there was no response from the respondent, the present petition has been filed before this Court.

4. Notice to the respondent returnable by 06.10.2025. Private notice is also permitted.

Post on 06.10.2025.”

3. Pursuant to the notice issued to the respondent, they are represented by the Deputy Solicitor General and a counter affidavit has been filed by the respondent along with the typedset of papers.

4. This Court has carefully considered the submissions made on either side and the materials available on record.

5. The learned counsel appearing on behalf of the petitioner submitted that the claims that have been made by the petitioner are not covered by the



earlier arbitration proceedings between the parties and therefore, there is no bar for the petitioner to raise these claims against the respondent.

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6. Per contra, the learned Deputy Solicitor General appearing on behalf of the respondent submitted that even though the claims that were made by the petitioner were considered and a rejection order was passed on 20.03.2025 on the ground that all those claims were available even during the earlier disputes between the parties, which was referred to the Arbitral Tribunal, and since the petitioner has not raised any of those claims at that point of time, the petitioner is barred from reviving those disputes.

7. In the considered view of this Court, when this Court deals with the petition filed under Section 11 of the Arbitration and Conciliation Act, this Court has to only see if there is a valid agreement between the parties in line with Section 7 of the Act and that agreement also contains an arbitration clause. These ingredients have been satisfied in this case.

8. The crux of the issue that has been raised on the side of the respondent is that the claim that has been made by the petitioner is barred by res judicata, since these claims were available to the petitioner even when the earlier dispute was agitated before the Arbitral Tribunal and when such claims were not raised by the petitioner at that point of time, the petitioner is barred from raising these claims at this length of time. In short, the issue raised by the respondent is



constructive res judicata that is sought to be put against the petitioner.

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9. The above issue cannot be gone into in a petition filed under Section 11 of the Act and at the best, this issue can be raised as a preliminary issue before the Arbitral Tribunal, which will be considered on its own merits and in accordance with law. Except giving this liberty, this Court cannot render any finding on the issue raised by the respondent.

10. The agreement contemplates an Arbitral Tribunal consisting of three members. One member must be suggested from the side of the petitioner. The other member must be suggested from the side of the respondent and both of them will appoint the Presiding Arbitrator.

11. In view of the above, on the side of the petitioner, Mr.Sudhir Kumar, Additional Director General (Retd.) having address for service at X-14, HIG, Ashiana Nagar, Phase-I, Patna, Bihar 800 025, Mobile No.9199427074, email: ersudhirkr@yahoo.co.in has been approved as the Arbitrator. On the side of the respondent, Mr..... has been approved as the Arbitrator. Hence, they are appointed by this Court as the Members of the Arbitral Tribunal and these Members shall appoint the Presiding Arbitrator. The Arbitral Tribunal, upon entering reference qua the Letter of Award dated 12.01.2022, shall adjudicate the disputes that have arisen between the parties by holding the sittings in any venue to the convenience of all concerned and shall render an award.



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12. This original petition is disposed of in the above terms. There shall be
no order as to costs.

03-11-2025

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

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To

1. The Executive Engineer (Trichy-II)
Central Public Works Department
(C.P.W.D)
Ministry of Housing and Urban Affairs
Government of India
IIM Campus, Trichy-620024



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