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Arb.O.P.(Com. Div.) No.369 of 2024



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.02.2025

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THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

Arb.O.P.(Com. Div.) No.369 of 2024
and
A. No.4806 of 2024

M/s. NA DIVINE HABITAT PVT. LTD,
Rep. by its Authorised Signatory
A.H. Ahamed Shakir,
No.10 and 11, Dr. Radhakrishnan Salai,
Mylapore, Chennai - 600 004.

... Petitioner

Vs.

M/s.SRI CHAKRA CONSTRUCTION,
Rep. by its Proprietor,
N. Bharath Kumar,
New No.3, Old No.16,
Chandrappa Street, Sowcarpet,
Chennai - 600 079.

... Respondent

PRAYER: Petition filed under Section 34 (2) and (2A) of the Arbitration and Conciliation Act, 1996 for the following reliefs:

a) Allow the above petition and set aside the arbitral award dated 17.07.2023 passed by the Arbitral Tribunal in so far as it allows certain claims of the claimant;

b) To direct the respondent to pay the cost.

For Petitioner : Mr.K. Prahalad Bhat

For Respondent : Mr. P. Saravanan



ORDER

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Learned counsel for the petitioner on instructions would submit that the petitioner has settled the dues of the respondent before the Executing Court. The learned counsel for the petitioner on instructions would submit that the petitioner has paid the said sum to the respondent without prejudice to the rights and contentions as he would submit that the petitioner was compelled to make the payment and the rights will have to be reserved by this Court for them to initiate appropriate legal action against the respondent for the recovery of the said sum from the respondent together with interest and costs. He seeks that an order be passed by this Court, in view of the payment made by the petitioner to the respondent, setting aside the impugned arbitral award.

2. Since the petitioner has paid the dues of the respondent before the Executing Court, the impugned arbitral award passed against the petitioner, which is the subject matter of challenge in this petition, has to be set aside. Accordingly, the impugned arbitral award is set aside by this Court. If at all the petitioner claims that the money paid by the petitioner to the respondent



before the Executing Court was under compulsion and was paid without prejudice to their rights and contentions, the petitioner will have to approach the appropriate forum for recovery of the said dues from the respondent. Liberty is granted to the petitioner for the same. However, it is made clear that the respondent is also at liberty to raise all the objections as and when the petitioner files a fresh legal petition against the respondent.

3. In terms of the above directions, this Arb.O.P.(Com. Div.) No.369 of 2024 is disposed of. Consequently, connected application is closed.

10.02.2025

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

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