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Arb. O.P. (Com. Div.) No.585 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.03.2025

CORAM

THE HON'BLE Mr. JUSTICE ABDUL QUDDHOSE

Arb.O.P (Com.Div.) No.585 of 2024

M/s.GTL Infrastructure Ltd.,
Rep. by its Managing Director,

... Petitioner

Vs

Manimegalai

... Respondent

Prayer : Arbitration Original Petition (Commercial Division) filed under Section 34(2) of the Arbitration and Conciliation Act, 1996 for the following reliefs :-

a) to set aside the Arbitral Award, dated 21.09.2024 passed by the Arbitral Tribunal Mr.S.R. Sundar, Sole Arbitrator in Arbitration No.1 of 2023;

b) to direct the respondent to pay the costs and

c) to pass such further or orders as this Court may deem fit and proper in the circumstances of the case and thus render justice.

For Petitioner : Mr. Sakthimanikandan

For Respondent : Mr.Manivelan



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ORDER

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This petition has been filed under Section 34 of the Arbitration and Conciliation Act, 1996 challenging the impugned Arbitral Award, dated 21.09.2024.

2. The petitioner has challenged the impugned Arbitral Award primarily on the ground that the Arbitrator who has passed the impugned Arbitral Award has failed to appreciate that the respondent / claimant had stopped giving access to the tower for the petitioner's Engineers/staff entry from November 2017 onwards.

3. In the respondent / claimant's premises, a cell phone tower was erected by the petitioner and a License Agreement, was entered into between the petitioner and the respondent, which is dated 28.10.2015. According to the respondent, as seen from her claim statement, outstanding arrears of rent are due from the petitioner to her from November 2017 onwards. Since the same was not paid, in accordance with the arbitration clause, arbitration was initiated by the respondent / claimant.

4. The Arbitrator under the impugned Arbitral Award has directed



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the petitioner to pay a sum of Rs.17,52,900/- along with an interest at the rate of 12% per annum from 01.11.2017 to 14.07.2023 to the respondent /claimant. Further it is stated that the claimant is entitled for an interest at the rate of 9% from 14.07.2023 on the aforesaid amount till the date of realisation of the entire amount. Further the petitioner herein is liable to dismantle the tower within one month from the date of receipt of the award failing which, the claimant is entitled to give 30 days due notice to the petitioner and dismantle the tower and recover the cost thereof from the petitioner in the above regard. Aggrieved by the impugned Arbitral Award, this petition has been filed.

5. Before the Arbitrator, the petitioner has raised the contention that the respondent /claimant did not give access to the petitioner's employees for the regular maintenance of the mobile tower erected in the premises of the respondent. Before the Arbitrator, no evidence was produced by the petitioner to substantiate their contention that the respondent did not provide access for the petitioner's employees to carry out inspection and regular maintenance work of the cell phone tower erected in the premises of the respondent. The Arbitrator under the impugned Arbitral Award has also considered the said fact and has rightly rejected the petitioner's contentions that has been raised once



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again before this Court under Section 34 of the Arbitration and Conciliation Act.

6. Before the Arbitrator, the respondent had filed eight documents, which were marked as Exhibits, which includes the License Agreement, which is the subject matter of the dispute between the parties. Only in accordance with the terms and conditions of the License Agreement, the Arbitrator has passed the impugned Arbitral Award directing the petitioner to pay a sum of Rs.17,52,900/- together with interest to the respondent. The Arbitrator has also framed issues and proper reasonings have been given by the Arbitrator with regard to the said issues and a proper findings have been rendered by the Arbitrator.

7. This Court, while deciding an application under Section 34 of the Arbitration and Conciliation Act cannot re-appreciate the evidence as it is not a Court of appeal. Only if the Arbitral Award was passed without any evidence, which in the instant case is not so, the question of interference by this Court under Section 34 of the Arbitration and Conciliation Act, 1996 will arise. This Court does not find any infirmity in the impugned Arbitral Award, dated 21.09.2024 passed by the Arbitrator. Accordingly, this petition is dismissed. No costs.



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Index: Yes/ No
Speaking order / Non speaking order
Neutral citation : Yes / No
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ABDUL QUDDHOSE, J.

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