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OSA (CAD) No. 34 of 2026

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.04.2026

Coram:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN
and
THE HONOURABLE MRS. JUSTICE K.GOVINDARAJAN THILAKAVADI

OSA (CAD) No.34 of 2026

M/s.NCC Limited
(Formerly M/s.Nagarjuna Construction Company Ltd.,)
No.190A, 7th & 8th Floor, Pettukola Towers, Kilpauk,
Chennai – 600 010.

... Appellant

Vs.

The Tamil Nadu Housing Board,
TNHB, Anna Nagar Circle,
Repl by its Superintending Engineer,
Chennai – 600 040.

... Respondent

Prayer: This Original Side Appeal has been filed under Order XXXVI Rule 9 of Original Side Rules r/w Clause 15 of Letters Patent r/w Section 37 of the Arbitration and Conciliation Act, 1996, r/w Section 13 of the Commercial Courts Act, 2015, to set aside the decreetal order dated 08.12.2025 in Arb.O.P.(Com.Div)No.35 of 2022 on the file of this Court.

For Appellant : Mr.R.Murari, Senior Advocate for
Mr.P.J.Rishikesh

For Respondent : Mr.J.Ravindran, AAG, Assisted by
Mr.S.Aravindan



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JUDGMENT

(Judgment of the Court was made by P.VELMURUGAN, J.)

This intra court appeal is filed against the order dated 08.12.2025 passed in Arb.O.P.(Comm.Div.).No.35 of 2022.

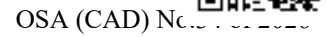
2 The appellant was awarded a turnkey project for the construction of 560 HIG flats at SAF Games Village, Koyambedu, by the respondent in the year 1994. Dispute arose between the parties and the matter initially went to three-member Arbitral Tribunal and an Award came to be passed, however the same was set aside by this Court on 26.02.2007, due to procedural infirmities. Thereafter, by consent of the parties, a sole arbitrator was appointed and he after considering the claims made by both the parties, on 30.07.2020 allowed part of the claims of the appellant and part of the counter claim of the respondent. Aggrieved against the same, the respondent filed a petition in Arb.O.P. (Com.Div) No.35 of 2022 under Section 34 of the Arbitration and Conciliation Act, 1996 (in short “the Act”) before this Court. The learned Single Judge, after hearing the counsel on both sides, by order dated 08.12.2025, allowed the petition by setting aside the Award passed by the Sole Arbitrator and remitted the matter back to the Arbitrator for passing final Award, against which, present appeal is filed by the appellant.



3 Learned Senior Counsel for the appellant would submit that despite giving sufficient opportunities, the respondent have not filed their written submissions, whereas, the appellant filed their written submissions in the year 1999 itself. Even though learned Arbitrator reserved the matter for passing final orders, the respondent sought some time to file written arguments and hence the learned Arbitrator, in the year 2020, directed both the parties to file their written submissions. But thereafter also the respondent did not file written submissions and hence the Award came to be passed with the available materials, partly allowing the claim of the appellant and partly allowing the counter claim of the respondent.

3.1 The respondent approached the Section 34 Court and the learned Single Judge, misinterpreting the Award and quoting some decisions of the Hon'ble Supreme Court, which would not be applicable to the present case on hand, set aside the Award and remitted the matter back to the learned Arbitrator for fresh consideration.

3.2 The learned Single Judge, while setting aside the Award, observed that there was inordinate delay in passing the Award, whereas, the respondent in their petition filed under Section 34 of the Act have not taken any such ground attacking the delay in passing the Award. The grounds taken by the respondent in the said petition are



3.3 The learned Senior Counsel for the appellant would further contend delay is the only ground to set aside the Award, the Section 34 Court, the very same judgment in *Lancor Holdings Limited vs. Prem Kumar Menon* reported in 2025 SCC OnLine SC 2319, can very well modify the Award limited to the interest portion alone, rather the Section 34 Court remanded the matter to the Arbitrator for fresh consideration, which is liable to be set aside.

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is allowed to continue, severe prejudice would be caused to the respondent. Therefore the matter can be heard by a new Arbitrator.

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5 Heard the learned Senior Counsel for the appellant and the learned Additional Advocate General for the respondent and perused the materials on record.

6 It is seen that the learned Single Judge, while setting aside the Award of the learned Arbitrator observed that even though the Arbitrator heard the matter in the year 2013 and reserved the same for passing Award, in the year 2020 only Award was passed and there is an inordinate delay in passing the Award and both the parties have not filed their written submissions as directed by the Arbitrator. Therefore the learned Single Judge remitted the matter back to the Arbitrator for fresh consideration.

7 The Arbitrator had taken up the matter as early as in the year 2008 itself and after hearing the parties, reserved the matter in the year 2013 for passing Award. Thereafter, in the year 2020, reopened the matter and directed both the parties to file their written submissions. Both the parties did not file their written submissions and hence the learned Arbitrator passed the Award on 30.07.2020, after the lapse of seven years.



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8 This Court, while deciding the appeal under Section 37 of the Act, can only see as to whether the Section 34 Court exceeded its jurisdiction and can only interfere with the same, if there is patent illegality or opposed to public policy.

9 We have carefully read the Award passed by the learned sole Arbitrator and the order passed by the learned Single Judge in the petition under Section 34 of the Act. We find no patent illegality in the order passed by the learned Single Judge and there is no reason to interfere with the same. However the learned Additional Advocate General made a request to remit the matter to some other Arbitrator and the same could not be considered for the reason that already the matter is pending for more than 15 years and furthermore the matter is remitted back only for the limited purpose of hearing final arguments and for passing of final award. Hence, if any new Arbitrator is allowed to hear the matter, he has to hear the matter afresh from the beginning, which will take considerable time and cause further delay. Therefore we are not inclined to send the matter to the new Arbitrator.

10 Accordingly, both the parties are directed to approach the same Arbitrator on or before 18.05.2026 and on such approach, the learned Arbitrator is



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directed to pass Award, after hearing the final arguments on either side, on merits and in accordance with law, within a period of two months from the date of approach by the parties. Both the parties are directed to co-operate with the Arbitrator to pass Award within the time stipulated by this Court. In the event of the parties failed to approach the Arbitrator on or before 18.05.2026 and failed to co-operate with the Arbitrator to pass Award within the stipulated time, the order passed by the learned Single Judge dated 08.12.2025 in Arb.O.P.(Com.Div) No.35 of 2022 is set aside and the Award of the learned sole Arbitrator dated 30.07.2020 is restored.

11 With the above directions, this appeal shall stand disposed of. No costs.

[PVJ] [KGTJ]
15.04.2026

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Note: Issue order copy on 21.04.2026**Copy to:**

The Superintending Engineer,
Tamil Nadu Housing Board,
TNHB, Anna Nagar Circle,
Chennai – 600 040.



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