

ITEM NO.41

COURT NO.9

SECTION XII

S U P R E M E C O U R T O F I N D I A

RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).7333/2006

(From the judgement and order dated 14/11/2005 in WP No. 33691/2005
of The

HIGH COURT OF MADRAS)

ENGINEER IN CHIEF ARMY HEADQUARTERS &ORS

Petitioner(s)

VERSUS

G.K. SHETTY PVT. BUILDERS LTD.

Respondent(s)

(With prayer for interim relief and office report)

WITH SLP(C) NO. 2384 of 2007

(with appln. For c/delay in filing SLP and with office report)

Date: 20/04/2007 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE A.K. MATHUR

HON'BLE MR. JUSTICE DALVEER BHANDARI

For Petitioner(s)

Mr. B. Datta, ASG

Ms. Rajni Ohri Lal, Adv.

Mrs Anil Katiyar, Adv.

Mr. D.S. Mahra, Adv.

For Respondent(s)

Mr. R. Anand Padmanabhan, Adv.

Mr. Pramod Dayal, Adv.

UPON hearing counsel the Court made the following

O R D E R

S.L.P.(C) No. 7333 of 2006

2

Learned ASG submits that he has filed another Special Leave

Petition (C) No. 2384 of 2007 against the impugned order and seeks leave

of the Court to withdraw the Special Leave Petition. The Special Leave

Petition is, accordingly, dismissed as withdrawn.

S.L.P.(C) No. 2384/2007

Heard learned counsel for the parties.

This Special Leave Petition is directed against the order dated

15.7.2005 passed by the learned Single Judge appointing Hon'ble Mr.

Justice M. Maruthamuthu, a retired Judge of the Madras High Court to

adjudicate the disputes between the parties. Earlier, by order dated

27.9.2004 passed by the learned Single Judge, Hon'ble Mr. Justice K. Gnanaprakasam was appointed as an arbitrator but he declined to proceed with the arbitration proceedings and, thereafter, by impugned order dated 15.7.2005, Hon'ble Mr. Justice M. Maruthamutu was appointed in place of Hon'ble Mr. Justice Gnanaprakasam. In fact, the order dated 27.9.2004 is not the subject matter in this petition because at the initial stage the petitioner only challenged the order appointing Hon'ble Mr. Justice M. Maruthamuthu as the arbitrator as he was substituted in place of Hon'ble Mr. Justice K. Gnanaprakasam, Learned ASG seeks leave of the Court to amend the petition and challenge both the orders. We allow the oral request of learned ASG for amendment of the

3

petition. This Court has taken the view that if any person has been designated in the arbitration agreement, then the Court should appoint the persons as per stipulation in the arbitration agreement. Reference may be made to the decision of this Court in ACE Pipeline Contracts

SCALE 341. Hence, we set-aside the impugned order dated 15.7.2005

passed by the High Court. Learned ASG submits that instead of sending

the matter back to the High Court for appointment of an arbitrator, he

would suggest the name of officer after seeking instructions from the

Department within two weeks.

Put up after two weeks.

(Pardeep Kumar)

Court Master

(Radha R. Bhatia)

Court Master