

CNICA REPORTER No:13

Dear All,

Greetings to you all,

CASE STUDY

COURT : High Court of Judicature at Delhi
Parties to the Case : MC-Rotem-Melco Consortium Versus M/s Delhi Metro Rail Corporation Ltd.
Case No. : OMP 304 of 2007 & IA NO.4917 of 2009
Judgment Dated : 22-04-2009
Judges : THE HONOURABLE CHIEF JUSTICE MR. SHIV NARAYAN DHINGRA

BRIEF FACTS OF THE CASE :

The Arbitral Tribunal passed an interim award and directed the parties to appear before it for adjudication of remaining issues. The petitioner had challenged the interim award by filing a petition under Section 34 of the Act. The petitioner raised objections against continuing of arbitral proceedings. It was submitted that although the award was termed as an interim award but the said award had rejected all the claims of the petitioner and was a final award as far as petitioner was concerned. The Arbitrator has allowed some of the claims of the respondent and while allowing the claims of the respondent, in order to evaluating exact value of the claim made in favour of the respondent, the Arbitrator has to go in the accounts. This would not be necessary if the petition of the petitioner is allowed and the claim awarded to the respondent is set aside. It is submitted that in view of Section 36 of the said Act, it was not permissible for the Arbitrator to proceed further.

HELD:

The petitioner has a right to challenge the interim award but only because the petitioner has challenged the interim award, the arbitral proceedings for deciding leftover questions, does not come to stay. Filing an application under Section 34 challenging an interim award would only result into the non-implementation of the interim award. The determination of the remaining questions by the Arbitrator does not amount to implementation of the award. Section 36 of the Arbitration & Conciliation Act, 1996 prohibits enforcement of the award till the pendency of the application under Section 34. It does not prohibit the Arbitrator from proceeded further and also from concluding the arbitral proceedings.

Events:

The Photograph of Inauguration of CNICA at Nagercoil are available in this link.

<http://picasaweb.google.co.in/lh/sredir?uname=cnicaarbitration&target=ALBUM&id=5330798151406517057&authkey=Gv1sRgCMGiob2mwcqdVg&feat=email>

Mr.D.Saravanan, Chairman CNICA, had a successful Trip to Hong Kong. He was invited to the Hong Kong International Arbitration Centre(HKIAC), the Hong Kong Mediation Centre (HKMC) and the Hong Kong Institute of Arbitrators. He had exclusive discussions with Mr.Gary Soo, Secretary General of HKIAC and Ms.Lee Secretary of HKMC. Some of the photos are found in the following link.

http://picasaweb.google.co.in/lh/sredir?uname=cnicaarbitration&target=ALBUM&id=5330796456543962913&authkey=Gv1sRgCP_K3-ChhcqdDw&feat=email

Mr.G.Ashokapathy, Secretary CNICA, is to deliver a short lecture titled 'ADR– The Unexplored Solution' in Lecture titled ""Gender Justice - Need of the Hour !" (speedy justice for Women)" to be presided by Honorable Justice Mr.S.Mohan, Former Judge of the Supreme Court of India, at 10.30 AM, on 2nd May 2009, at Bharaiya Vidya Bhavan, East Mada street, Mylapore, chennai 600 004. The programme is organised by Dr. Chitra S Narayanaswamy Centenary Trust. The invitation is attached.

We appreciate your inputs, suggestions and contributions in this regard. We welcome all to send their articles and we shall publish the same. We shall also appreciate if you could furnish us the email address of persons who would be interested in receiving our email.

Regards
G.Ashokapathy
Secretary,
CNICA.