

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 21ST DAY OF APRIL, 2021

PRESENT

THE HON'BLE MR. ABHAY S. OKA, CHIEF JUSTICE

AND

THE HON'BLE MR. JUSTICE SURAJ GOVINDARAJ

COMAP. NO.48 OF 2021

BETWEEN

M/S MARVEL INFRABUILD PRIVATE LIMITED
A COMPANY REGISTERED UNDER
THE COMPANIES ACT 1956
HAVING ITS REGISTERED OFFICE AT
SY. NO.213/3, VEERASWAMY
REDDY COLONY, NEAR WGS
SCHOOL, CHANNASANDRA MAIN ROAD
KADUGODI, BANGALORE-560067

REPRESENTED HEREIN BY ITS
AUTHORISED REPRESENTATIVE
MR. MADHAVA REDDY BADAM

... APPELLANT

(BY SRI. KASHYAP N.NAIK, ADVOCATE OF AGRAA LEGAL-VC)

AND:

1. MRS. MUNEEERA GHOUSE
WIFE OF M. MOHAMMED
GHOUSE AGE NOT KNOWN
TO THE PETITIONER
2. MR. MOHAMMED GHIASE
SON OF M. MOHAMMED GHOUSE
AGE NOT KNOWN TO THE PETITIONER
3. MR. AMJAD MANIAR
SON OF M. MOHAMMED
GHOUSE, AGE NOT KNOWN
TO THE PETITIONER

ALL RESPONDENTS RESIDING
AT NO.482, 100 FEET ROAD
INDIRANGARA, BANGALORE-560038

... RESPONDENTS

(BY SMT. GEETHA MENON, ADVOCATE OF PRAMILA ASSOCIATES-VC)

THIS COMAP. IS FILED UNDER SECTION 13(1A) OF THE COMMERCIAL COURTS ACT, 2015 READ WITH SECTION 37 OF THE ARBITRATION AND CONCILIATION ACT, 1996 PRAYING TO SET ASIDE THE ORDER DATED 12.01.2021 PASSED BY THE LXXXII ADDITIONAL CITY CIVIL AND SESSIONS JUDGE, BANGALORE IN COMMERCIAL A.A.NO.38/2020 (ANNEXURE-A) AND CONSEQUENTLY ALLOW COMMERCIAL ARBITRATION APPLICATION NO.38/2020 FILED BY THE APPELLANT HEREIN AND ETC.

THIS COMAP. COMING ON FOR ADMISSION THROUGH VIDEO CONFERENCING THIS DAY, CHIEF JUSTICE MADE THE FOLLOWING:

JUDGMENT

1. Heard the learned counsel appearing for the appellant and the learned counsel appearing for the respondents.
2. By filing a petition under Section 9 of the Arbitration and Conciliation Act, 1996 (for short 'the said Act of 1996'), the petitioner invoked clause (b) of Sub-section (1) of Section 9 of the said Act of 1996 seeking a direction to secure the amount in dispute in arbitration.
3. According to the case of the appellant, the amount in

dispute subject matter of arbitration is Rs.17,81,04,833/-. The learned counsel appearing for the appellant fairly pointed out that after the impugned order was passed, the learned Arbitrator has been appointed and in fact, the appellant has moved an application for interim directions under Section 17 of the said Act of 1996. He states that the said application is not being heard.

4. The learned counsel appearing for the respondents, on instructions, states that the respondents will deposit a sum of Rs.8,95,00,000/- (Rupees Eight crores ninety five lakhs) with the Arbitral Tribunal within a period of three weeks from today.

5. The learned counsel appearing for the appellant states that if the said amount is deposited, the appellant will not press for an order securing the remaining amount. However, he states that he will seek the relief in respect of the entire amount under Section 17 of the said Act 1996.

6. As the respondents has agreed to deposit a sum of Rs.8,95,00,000/- (Rupees Eight crores ninety five lakhs) within three weeks from today, till the date of deposit of the amount, the

interim relief operating till date will have to continue. On deposit of the said amount within three weeks from today, the interim relief shall automatically cease to operate. However, if the amount is not deposited, it follows that the interim relief will continue till the decision on the application is made under Section 17 of the said Act of 1996.

7. In view of the above discussion, we pass the following:

ORDER

- i) We accept the statement made by the learned counsel appearing for the respondents that a sum of Rs.8,95,00,000/- (Rupees Eight crores ninety five lakhs) will be deposited with the Arbitral Tribunal/Arbitration Center within a period of three weeks from today;
- ii) We direct that the interim relief which is operating till today shall continue to operate for a period of three weeks from today;

- iii) If the respondents deposit the amount of Rs.8,95,00,000/- (Rupees Eight crores ninety five lakhs) with intimation to the appellant within a period of three weeks from today, on deposit of the said amount, the interim relief shall stand vacated without further reference to the Court;
- iv) On the failure of the respondents to deposit a sum of Rs.8,95,00,000/- (Rupees Eight crores ninety five lakhs) within a period of three weeks from today, the interim relief operating in this appeal shall continue to operate till the disposal of the application made by the appellant under Section 17 of the said Act of 1996;
- v) We make it clear that notwithstanding this order, it will be always open for the appellant to prosecute the application made under Section 17 of the said Act 1996 for securing the entire amount of Rs.17,81,04,833/-. However, all the defences of the respondents are kept open;
- vi) The appeal is disposed of on the above terms.

- vii) On deposit of the amount by the respondents, the same shall be forthwith suitably invested in Fixed Deposit.

**Sd/-
CHIEF JUSTICE**

**Sd/-
JUDGE**

In