

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

ARBITRATION APPLICATION. NO.100 OF 2016

ORDER:

An arbitrator was appointed to arbitrate the disputes between the applicant and the respondent. On the ground that the arbitrator had become *de jure* or *de facto* unable to discharge his duties, a notice was issued by the applicant for the arbitrator to be substituted under Section 15(2) of the 1996 Act.

The present application is filed under Section 11(5) read with Section 14(1)(a) of the 1996 Act to appoint a substitute arbitrator. Section 14(1)(a) of the 1996 Act provides that the mandate of an arbitrator shall terminate, and he shall be substituted by another arbitrator if he becomes *de jure* or *de facto* unable to perform his functions or for other reasons fails to act without undue delay. Under Section 14(2), if a controversy remains concerning any of the grounds referred to in Section 14(1)(a), a party may, unless otherwise agreed by the parties, apply to the Court to decide on the termination of the mandate.

It is not in dispute that the parties have not otherwise agreed for termination of the mandate of the arbitrator who become *de jure* or *de facto* unable to perform his functions. "Court" has been defined under Section 2(e) of the Arbitration and Conciliation Act, 1996 as the Principal Civil Court of original jurisdiction in a District. The only manner in which the applicant can seek termination of the mandate of the arbitrator is to invoke the jurisdiction of the District Court under Section 14(2) of the 1996 Act, and, as long as the mandate of the earlier arbitrator is not

terminated, an application under Section 11(5) of the Act is not maintainable.

The application as filed before this Court, under Section 11(5) read with Section 14(1)(a) of the Act, is wholly misconceived and is, accordingly, dismissed. Needless to state that this order shall not preclude the applicant from availing such remedies, as are available to him under the 1996 Act, in accordance with law. The miscellaneous petitions pending, if any, shall stand closed. No costs.

Date: 04.11.2016.

MRKR

RAMESH RANGANATHAN, ACJ

