

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.01.2019

CORAM

THE HON'BLE MR. JUSTICE M.M.SUNDRESH
AND
THE HON'BLE MR. JUSTICE KRISHNAN RAMASAMY

O.S.A.No.3 of 2018

Hardy Exploration & Production (India)
Inc., having its Office at
5th Floor, Westminster Building,
108, Dr.Radhakrishnan Salai,
Chennai - 600 004.

...Appellant

Vs

1.Oil and Natural Gas Corporation
Ltd., CMDA Building Tower II,
7th Floor, South Wing,
1, Ganesh Irwin Road, Egmore,
Chennai - 600 008.

2.Hindustan Oil Exploration Company
Ltd., Lakshmi Chambers,
192, St. Mary's Road, Alwarpet,
Chennai - 600 028.

3.Tata Petrodyne Ltd.,
3rd Floor, Metropolitan,
Bandra Kurla Complex,
Bandra East, Mumbai - 400 051.

...Respondents

Appeal preferred under Order XXXVI Rule 1 of O.S. Rules r/w
Clause 15 of Letters Patent and Section 37(1)(a) of the
Arbitration and Conciliation Act, 1996, against the order dated
30.11.2017 made in O.A.No.346 of 2017.

For Appellant : Mr.P.R.Raman,
Sr. Counsel
for M/s.Vinod Kumar

For Respondents : Mr.M.Vijayan
for M/s.King and Patridge for R1
Mr.Arun Karthik Mohan for R2
Mr.Srinath Sridevan for R3

JUDGMENT

(Judgment of the Court was delivered by M.M.SUNDRESH, J.)

This appeal is filed against the dismissal of the application filed under Section 9 of the Arbitration and Conciliation Act, 1996. However, in the meanwhile, award has been reserved by the Foreign Arbitration Tribunal. In such view of the matter, we are of the considered view that no adjudication is necessary in this appeal.

2.Inasmuch as the learned senior counsel appearing for the appellant has raised the question of law with respect to the jurisdiction of this Court to entertain the application under Section 9 of the Arbitration and Conciliation Act, 1996 on the basis that the amendment made to Section 2 (2) of the Arbitration and Conciliation Act, 1996, we deem it appropriate to leave the said issue open to be decided at the appropriate stage as undertaking the said exercise in this case would be of mere academic in nature.

3.Accordingly, the Original Side Appeal stands disposed of, leaving the legal issue open. Consequently, the findings and reasoning rendered by the learned single Judge leading to her conclusion are also eschewed. We observe so, also on the ground that the appeal is the continuation of the original proceedings, though admittedly, it is not a matter of right. Secondly, this Court should also exercise the power permitting the appellant to withdraw the appeal. There is yet another reason for the order passed. Depending upon the award to be passed, both the parties may also approach this Court and raise their respective contentions, which situation we do not want to preempt at this stage. Thus, we leave the doors open to the parties to raise all the issues both on law and on facts, if they desire to do so. No costs.

mmi

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

The Sub Assistant Registrar,
Original Side, High Court, Madras.

+1cc to Mr.Vinod Kumar, Advocate, S.R.No.1438

+1cc to M/s.King & Partridge, Advocate, S.R.No.7526

+1cc to M/s.Arun Karthik Mohan, Advocate, S.R.No.7575

O.S.A.No.3 of 2018

Kak (14/03/2019)



WEB COPY