

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

Arb.Appln.No.15 of 2019

ORDER:

Heard Sri Vijay Pissay, counsel for applicant and Sri M.Purushothama Charyulu, Counsel for respondent.

2. This Arbitration Application is filed under Section 11(5) of the Arbitration and Conciliation Act, 1996 for appointment of a sole Arbitrator to arbitrate upon the disputes between the applicant and the respondent in accordance with the Charter Hire Agreement dt.17.02.2017 between the parties.

3. It is the contention of the applicant that the respondent had unilaterally appointed Hon'ble Sri Justice L.Narasimha Reddy(Retired) vide letter dt.18.01.2019 which the applicants had opposed in their reply dt.22.01.2019; that on 30.01.2019 the said Arbitrator had addressed an e-mail communication to both the parties erroneously stating that the letter dt.18.01.2019 was also addressed to the applicant, but that was in fact not addressed to them; that Admiralty Suit No.32 of 2018 and 31 of 2018 had been filed in Gujarat High Court seeking certain amounts from the respondent which are pending in the said High Court; that on 01.02.2019 the applicant had objected to appointment of Hon'ble Sri Justice L.Narasimha Reddy(Retired) as an Arbitrator on certain

grounds mentioned therein; and on 01.02.2019, His Lordship had addressed a letter to the applicant's Attorneys stating that he withdrew himself from the entire issue and informed the applicant that even if the applicant had any change of mind, he would not act as an Arbitrator in the matter. It is contended that the applicant addressed a communication on 02.02.2019 to His Lordship, but His Lordship had addressed an e-mail dt.16.02.2019 again proposing to hold a meeting on 02.03.2019 observing that the objection raised earlier was withdrawn.

4. Counsel for applicant has contended that under Section 15(1)(a) of the Arbitration and Conciliation Act, 1996, the mandate of His Lordship Justice L.Narasimha Reddy had been terminated once he withdrew from the arbitration by addressing the communication dt.01.02.2019 and so he could not have again resumed the arbitration proceedings through his e-mail dt.16.02.2019.

5. Though counsel for the respondent sought to sustain the action of the learned Arbitrator in again seeking to resume arbitration, having regard to the clear language in Section 15(1)(a) that the mandate of an Arbitration would terminate if he withdrew from office for any reason, the stand of the respondent cannot be accepted.

6. Therefore, it has to be held that the mandate of Hon'ble Sri Justice L.Narasimha Reddy(Retired) had been terminated by His Lordship by letter dt.01.02.2019 and therefore a substitute Arbitrator is required to be appointed under sub-section (1) of Section 15.

7. Though Sub-Section (1) of Section 15 requires a substitute Arbitrator to be appointed also according to the Rules that were applicable to the appointment of the arbitrator being replaced, both parties have filed a Joint Memo waiving such a requirement and agreed to the appointment of Hon'ble Sri Justice C.V.Ramulu, Former Judge of this Court to be the Sole Arbitrator, to adjudicate any and all disputes between the applicant and respondent arising out of or in relation to the two Charter Hire Agreements dt.17.02.2017 and 12.02.2018.

8. However, the counsel for the applicant stated that his client has agreed to this without prejudice to his right to contest before the Gujarat High Court Admiralty Suits No.32 and 31 of 2018 regarding the maintainability of said Admiralty Suits.

9. Likewise, the counsel for the respondent contended that his client has also agreed to the above appointment without

prejudice to his client's rights to contest the claim of the applicant about the maintainability of said Admiralty Suits No.31 and 32 of 2018 in the Gujarat High court.

10. The said reservation of both parties is placed on record.

11. Accordingly, the Hon'ble Sri Justice C.V.Ramulu, Former Judge of this Court is appointed as Sole Arbitrator to adjudicate any and all disputes and differences between the applicant and respondent arising out of or in relation to the Charter Hire Agreements dt.17.02.2017 and dt.12.02.2018, subject to the above reservations of both parties.

12. The Arbitration Application is allowed as above. No costs.

13. Consequently, miscellaneous petitions pending if any, shall stand closed.

M.S. RAMACHANDRA RAO, J

22nd April, 2019.

Note: Copy to be marked to
 Hon'ble Sri Justice C.V.Ramulu(Retired),
 H.No.2-2-18/31(A-23),
 Durgabai Deshmukh Colony,
 Bagh Amberpet, Hyderabad-13.
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