

A.No.1001 of 2020
in
O.P.No.862 of 2019

M.SUNDAR, J.

Instant application has been taken out by respondent in the main 'Original Petition' ('OP' for brevity).

2. Main OP was disposed of by this Court by an order dated 18.12.2019 *inter alia* appointing two arbitrators holding that the two arbitrators shall in turn appoint the presiding Arbitrator for constitution of three member Arbitral Tribunal.

3. Ms.P.Pooja of M/s.Giridhar and Sai (Law Firm) on behalf of the applicant and Ms.Varsha Manoj, learned counsel representing the counsel on record for respondent in instant application are before this Court.

4.Learned counsel for applicant submits that one of the two arbitrators appointed vide aforementioned order dated 18.12.2019 i.e, Hon'ble Mr.Justice Suresh Kantilal Shah (Retd.), has expressed his inability to act as an Arbitrator and learned counsel submits that, this has

necessitated the filing of the instant application. Name of another former judge of Hon'ble High Court of Andhra Pradesh has been suggested in place of Hon'ble Arbitrator, who has expressed inability. This is articulated in Paragraph 3 of the affidavit filed in support of instant application, which reads as follows:

'3.While so, the said Hon'ble Mr.Justice Suresh Kantilal Shah, Retired Judge of Bombay High Court has expressed his inability to act as an Arbitrator in the said case due to personal reason and as such, the Applicant/Respondent seeks appointment of Justice P.Durga Prasad, Former Judge of Andhra Pradesh High Court (Address Flat No.103 Block No.5, Harivillu Apartment, Manikonda, Hyderabad – 500 089 Mob: 9491066591/9849142075) as its nominee Arbitrator in place of Hon'ble Mr.Justice Suresh Kantilal Shah. The Justice P.Durga Prasad, Former Judge Andhra Pradesh High Court has also given his consent to act as an Arbitrator subject to the order of this Hon'ble Court. Hence, this application.'

5. Learned counsel for respondent, on instructions, submits that instant application is not opposed and that the respondent in instant application is agreeable for appointment of the former Judge of Andhra Pradesh High Court in place of the Arbitrator, who has expressed inability. This makes the task of disposal of instant application fairly simple.

6. Order dated 18.12.2019 made in main O.P. i.e., O.P.No.862 of 2019 is modified by substituting the name of Hon'ble Mr.Justice P.Durga Prasad (Retd.), former Judge of Hon'ble Andhra Pradesh High Court in place of Hon'ble Mr.Justice Suresh Kantilal Shah (Retd.) former Judge of Hon'ble Bombay High Court. To be noted, consequent changes will be in Paragraphs 7, 10 and postscript to the order captioned 'Note'. In other words, consequent changes will be effected in three places in the order dated 18.12.2019.

Instant application ordered on above terms.

05.03.2020

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Note: Registry to make necessary changes/modifications and re-issue the order dated 18.12.2019 to parties who seek certified copies of this order.

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