

A.No.2551 of 2020
in
O.P.No.121 of 2020

M.SUNDAR.J.,

In captioned application, Mr.V.P.Raman, learned counsel on record for applicant, assisted by Mr.Seshadri, learned Additional Solicitor General of India Mr.R.Sankara Narayanan instructed by Mr.Venkataswamy Babu, learned Senior Panel Counsel for Government of India on behalf of respondent are before me in this web hearing on a video conferencing platform.

2. Prayer in captioned application as culled out from judges summons is as follows:

'permit the counsel for the applicant to collect the amount permitted to be withdrawn by this Hon'ble Court vide the order dated 30.09.2020 in A.556 of 2020 in O.P.121 of 2020 on behalf of the applicant.'

3. There is no dispute or disagreement that this order is directly covered by another order made in captioned OP, being common order dated 05.08.2020 in Application Nos.1597 and 1598 of 2020, which

reads as follows:

'This common order will govern both these applications, namely A.No.1597 of 2020 and A.No.1598 of 2020.

2.'O.P.No.121 of 2020' shall be referred to as 'senior OP' and 'O.P.No.311 of 2020' shall be referred to as 'junior OP' for the sake of convenience and clarity.

3.Today, Mr.V.P.Raman, learned counsel on record for applicant/ petitioner and Ms.Jayachitra, learned counsel representing Mr. Venkataswamy Babu, Senior Panel Counsel for Government of India on behalf of sole respondent/respondent in both the applications on hand are before me in a web-hearing on a video-conferencing platform.

4. There is no dispute or disagreement between the aforementioned two counsel before me today regarding the trajectory senior / junior OPs and applications therein have taken thus far.

5.It is the common say of both learned counsel that vide separate orders in separate applications in senior and junior OPs, being orders dated 10.12.2019, there was a direction to deposit 50% of the arbitral award amount and subsequently vide two separate applications in the senior and junior OPs, vide separate orders both dated 18.02.2020 [as clarified vide order dated 11.03.2020], in the applications concerned, the applicant / petitioner was permitted to withdraw Rs.40 lakhs in all from the 50% arbitral award amount which had been deposited pursuant to 10.12.2019 orders. To be noted, this Court is informed that Certificate of Funds had also been issued.

6. In the aforesaid backdrop, instant applications have been taken out with prayers to permit counsel on record Mr. V.P.Raman and/or Mr.M.S.Seshadri to collect the instrument from the Registry of this Court without insisting on personal presence of the applicant. The reason is articulated in Paragraph 5 of the affidavits filed in support of instant applications and Paragraph 5 of affidavits filed in support of instant applications reads as follows:

'5.I am informed by my counsel that the registry insists on me being present personally to collect the payment and this procedure is usually followed to release the payment. Due to

the various travel restrictions and quarantine requirements in place from 24.03.2020, I am unable to travel to Chennai anytime in the near future to be present physically to collect the payment. I am 67 years old, suffer from diabetes and therefore at a higher risk of being infected if exposed. It is relevant to point out that I am based in Pune which has been placed under intensive lockdown for the last ten days. I therefore pray to this Hon'ble Court that the cheque may be collected by my counsels Mr.V.P.Raman and M.S.Seshadri on my behalf. In this regard I authorise my counsel to collect the payment on my behalf.'

7. A perusal of Paragraph 5 (extracted and reproduced supra) reveals that the reason for prayers in instant applications is the Corona Virus pandemic and consequent lockdown, which is being referred to as 'Covid-19 situation' and the attendant lockdown, containment zone and travel restrictions. Therefore, it is made clear that this order is being passed owing to the unusual circumstances which obviously the applicant could neither portend nor presage. In other words, this order will not serve as a precedent in the days to come when normalcy rescinds or post normalcy.

8. What is of consequence is, learned counsel for respondent/respondent in both these applications very fairly submitted that having deposited 50% of the arbitral award amount as per the orders of this Court they do not really have a say in this matter and they really cannot have any serious objection or opposition as it is in the realm of discretion of this Court.

9. In the light of the narrative thus far, instant applications are ordered permitting counsel on record for applicant/petitioner namely Mr.V.P.Raman and/or Mr.M.S.Seshadri to collect the instrument/s pursuant to the Certificate of Funds issued in this matter for a total sum of Rs.40 lakhs vide earlier orders of this Court mentioned elsewhere supra in this order.

10. Though obvious, learned counsel shall identify themselves to the Registry and provide necessary documents

*/photocopies of the documents for the records of the Registry.
Both these applications are ordered on above terms.'*

4. In the light of the aforesaid undisputed position, prayer in captioned application is allowed or in other words, captioned application is ordered as prayed for with all riders and precautions as in 05.08.2020 order including the caveat that this order is passed owing to the unusual circumstances which applicant could neither portend nor presage and therefore, it shall not serve as a precedent. To be noted, this is already set out in Paragraph No.7 of earlier order dated 05.08.2020. Captioned application is ordered on above terms. There shall be no order as to costs.

02.11.2020
(2/2)

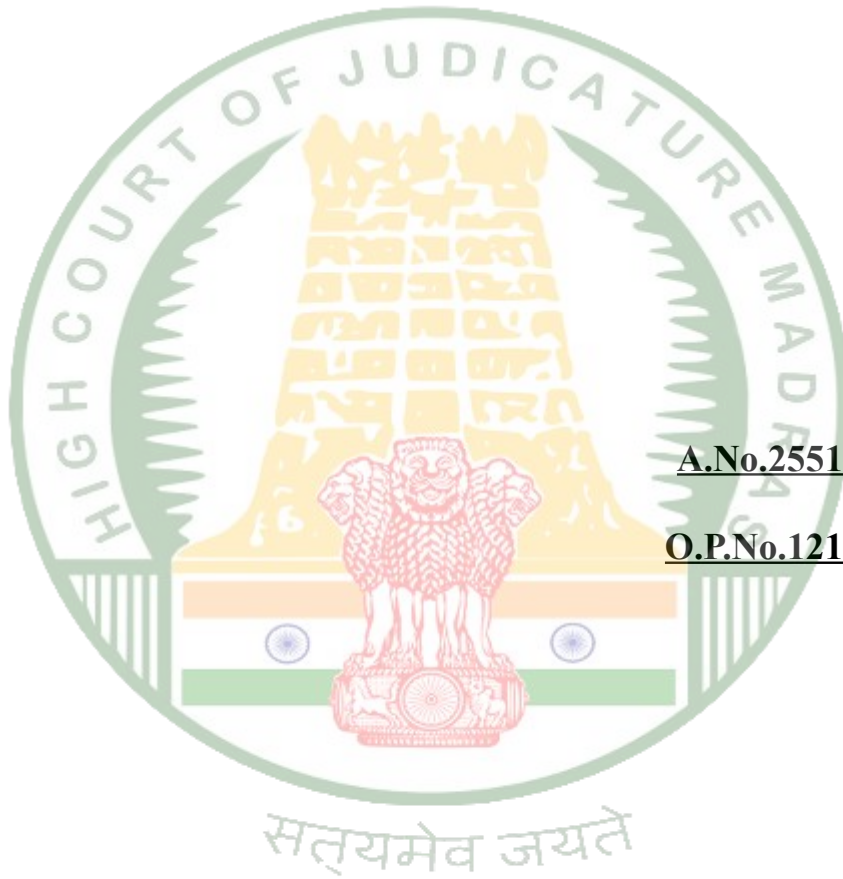
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