

A.No.9158 of 2019
in O.P.No.364 of 2017

M.SUNDAR, J.

Mr.M.L.Ganesh, learned counsel on record for applicant and Mr.S.Gopinathan, learned Standing Counsel for 'Bharat Sanchar Nigam Ltd.', ('BSNL' for the sake of brevity) are before this Court.

2. A perusal of the Judge's Summons placed before this Court reveals that instant application has been filed under Section 29(A) of Original Side Rules. Learned counsel, at the hearing, submits that this is an error. Learned counsel for applicant makes a request that instant application may please be treated as an application under Section 29-A (4) of 'The Arbitration and Conciliation Act, 1996 (Act No.26 of 1996)', which shall hereinafter be referred to as 'A and C Act' for the sake of brevity, clarity and convenience.

3. Be that as it may, quoting the wrong provision of law does not denude this Court of its power to entertain an application if the Court otherwise has powers to do so. Therefore, this request is acceded to.

4. There is consensus between both the learned counsel before this Court that the prayer for extension of time for the Hon'ble Arbitral Tribunal

for making the award needs to be acceded to. This makes the task of disposal of instant application fairly simple and removes the need to dilate on facts and trajectory thus far.

5. Adverting to an order made by 'National Company Law Tribunal' ('NCLT' for brevity) dated 10.04.2019, learned counsel on both sides submitted that the order, which intervened in the arbitral proceedings before the Arbitral Tribunal has necessitated the filing of instant application. Be that as it may, proceedings of the Hon'ble sole Arbitrator who constituted the Arbitral Tribunal has been placed before this Court (proceeding dated 28.08.2019) and a perusal of the proceedings reveals that the time period of 12 months and subsequent 6 months by consent of parties (18 months in all) elapsed on 19.08.2019.

6. Consensus between the learned counsel on both sides is read in the light of minutes of Hon'ble Arbitrator constituting the Arbitral Tribunal being minutes dated 28.08.2019 placed before this Court, which reads as follows:

'The claimant is represented by Mr.Kasi Viswanathan, the liquidator appointed by the National Company Law Tribunal, Chennai Bench.

The respondent is represented by the learned counsel

Mr.S.Gopinathan. The above mentioned officers of Respondent are also present today.

The Tribunal by the order dated 14.06.2019 extended the period of Arbitration by 6 months as the Tribunal has to complete and pass the Awards within a period of 12 months from the date of the Arbitral Tribunal enters upon the reference on the basis of the joint memo filed by the Claimant represented by the liquidator and the respondent dt. 14.06.2019. The period was extended upto 19.08.2019. Now the extended period was expired on 19.08.2019. Therefore, the claimant represented by the liquidator and the Respondent have to approach the competent Court for the extension of further period to complete the proceedings and to pass the Award. Accordingly, it is open to the Claimant and Respondent to take steps to file the extension petition before the competent Court.

For enabling the parties to approach the competent Court and get the extension of time for completing the Arbitration proceedings, the next sitting will be fixed after the intimation received from the parties about the extension of time.'

7. Therefore, prayer in instant application is allowed by extending the time for the Hon'ble Arbitral Tribunal to pass an award by six months i.e., upto 31.07.2020.

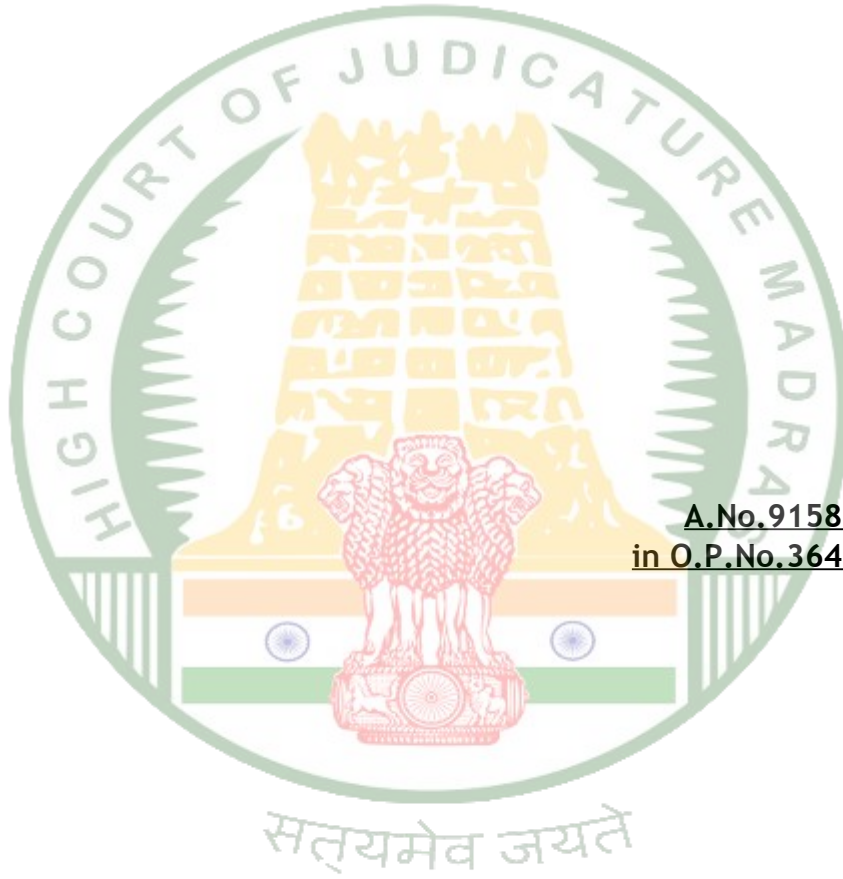
Application is disposed of on above terms.

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09.01.2020

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