

A.No.9739 of 2019
in O.P.No.2 of 2016

M.SUNDAR,J.

Mr.Prabhu Mukunth Arun Kumar, learned counsel for applicant and Mr.P.S.Vasanth Kumar, learned counsel on record for first respondent are before this Court. This Court is informed that second respondent is deleted from the array of parties.

2.The instant application has been taken out under Section 29-A(4) of 'The Arbitration and Conciliation Act, 1996 (Act No.26 of 1996)' [hereinafter be referred to as 'A and C Act' for the sake of brevity, convenience and clarity].

3.Prayer in instant application inter-alia is for extension of time for Arbitral Tribunal to pass an Award.

4.A very short history of the case is that a Sole Arbitrator was appointed by the then Hon'ble Chief Justice of this Court vide an order dated 26.02.2016 made in O.P.No.2 of 2016. Sole Arbitrator so appointed to enter upon reference qua arbitral disputes that have arisen between the parties with regard to an agreement dated 01.03.2012 was elevated to the Bench of this

Court, therefore an application in A.No.7436 of 2017 was moved and vide order dated 20.11.2017 in the said application, Hon'ble Arbitrator appointed vide order dated 26.02.2016 was replaced by another Sole Arbitrator, who is a learned member of this Bar.

5. Between the appointment of the First Hon'ble Arbitrator on 26.02.2016 and the appointment of the Second learned Arbitrator on 20.11.2017, pleadings had been completed before the Arbitral Tribunal and this Court is now informed without any dispute or disagreement that pleadings were completed on 16.02.2017.

6. Be that as it may, post appointment of learned (second) Arbitrator on 20.11.2017, the applicant herein has sent a communication to the learned Arbitrator on 05.02.2018 and the same has obviously been received by the learned Arbitrator on or before 10.04.2018. Learned Member of the Bar, in his capacity of an Arbitrator, sent a communication dated 10.04.2018 fixing a hearing on 21.04.2018 and directed the parties to collect papers/files from earlier Arbitrator. Therefore, with regard to Arbitral Tribunal i.e., the Second Arbitrator appointed (vide order dated 20.11.2017) he entered upon reference between 05.02.2018

and 10.04.2018. To be noted, the exact date on which the Second Arbitrator entered upon reference is not readily available with specificity but it is between 05.02.2018 to 10.04.2018 is the common say of both the learned counsel.

7.As already alluded to supra, this Court now proceeds to deal with the instant application which is inter-alia under Section 29-A(4) of 'A and C Act'. The reckoning date for computing the 12 months period falls for consideration in the case on hand. As already alluded to supra, if it is the date of Second Arbitrator entering upon reference, the date of entering upon reference is between 05.02.2018 and 10.04.2018 but the exact date of entering upon reference is not readily available. If it is the date of completion of pleadings post 30.08.2019 amendment to 'A and C Act', date of completion of pleadings is 16.02.2017 but that is before appointment of second Arbitrator but either way the 12 months period has elapsed.

8.Therefore, this Court now proceeds to deal with the instant application in the light of the fact that 12 months time period has elapsed either way.

9.Both learned counsel submitted that as per the provisions in 'A and C Act', a further extension of six months can be made by mutual consent of parties but that did not happen.

10.From the case file, it comes to light that the delay in making the award has occurred owing to change of Arbitrator as the First Arbitrator was elevated to the Bench of this Court and the transmission of files pertaining to arbitration from the First Arbitrator to the second Arbitrator consumed considerable time.

11.In this view of the matter, this Court is convinced that this is a fit case for granting extension of time for making the award.

12.Be that as it may, both learned counsel stated that the arbitral proceedings are at an advanced stage, to be specific, it is in a stage where cross examination is underway after completion of pleadings.

13.Therefore, this application is ordered extending the time for the Arbitral Tribunal (constituted by Mr.R.Umashankar,

Advocate, having his office at Sri Lakshmi Rangan Nivas, New No.7, Kondichetty Street, Parrys, Chennai-600 001, Mobile No.9444010639) upto 31.08.2020 for making the award.

14.To be noted, both learned counsel before this Court submit that they will co-operate and ensure expeditious conclusion of arbitral proceedings. Learned Sole Arbitrator is requested to expedite the proceedings and ensure that award is passed by 31.08.2020.

05.02.2020

Note:a)Issue order copy on **11.02.2020**

b)Registry is directed to communicate this order to the learned Arbitrator (Mr.R.Umashankar, Advocate, having his office at Sri Lakshmi Rangan Nivas, New No.7, Kondichetty Street, Parrys, Chennai-600 001, Mobile No.9444010639) forthwith.

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