

16.04.2021
Court No. 19
Item no.21
CP

C.O. 1377 of 2020

Serampore Multipurpose Samabaya Samity Limited.
vs.
Indian Oil Corporation Limited & anr.

(via video conference)

Mr. S. N. Dutta

.....for the petitioner.

Mr. Amit Kumar Nag

...for the opposite parties.

This revisional application has been filed challenging an order dated August 12, 2020 passed by the learned arbitrator. The allegation is that the mandate did not stand terminated and the learned Arbitrator ought to have taken cognizance of the application filed by the petitioner dated July 27, 2020.

It is the contention of the petitioner that the learned arbitrator by an e-mail dated September 15, 2020 communicated the order impugned. The learned Arbitrator came to the conclusion that as the mandate had terminated, no further application, or communication or documents should be filed by the petitioner.

The learned advocate for the petitioner has relied on the decision of the Hon'ble Apex Court wherein the Hon'ble Apex Court directed that

mandates would not terminate during the pandemic period of any arbitration proceeding for reasons contained in the said judgment of the Hon'ble Apex Court. The petitioner filed an application annexing the copy of the order of the Hon'ble Apex Court before the learned arbitrator in support of his contention that the mandate had not terminated. Moreover, it is submitted that the sur-rejoinder had been filed on October 1, 2019 and, as such, even if the order of the Hon'ble Apex Court had not been considered, the mandate would not terminate as the pleadings were only complete on October 1, 2019.

Learned advocate for the opposite parties submits that the Arbitration and Conciliation Act, 1996 being a complete code in itself, takes care of such a situation. The remedy of the petitioner would be to file an appropriate application before the principal civil court under Section 14(2) or Section 29(A)(4) of the Arbitration and Conciliation Act, 1996.

Although, prima facie, the petitioner has made out an arguable case on merits as to termination of the mandate, but this court shall not invoke the superintending power in view of the specific provisions under the relevant statute. The remedy of the petitioner lies elsewhere.

The petitioner is directed to file an appropriate application before the appropriate forum ventilating

his grievances upon service of an advance copy upon the opposite parties. Such application to be filed within a period of one month. The written objection to the said application will be filed within 10 days thereafter and the learned principal civil court before whom such application shall be filed will dispose of the same on merits and in accordance with law within a period of one month from completion of the pleadings.

The revisional application is disposed of. There shall be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the parties as expeditiously as possible subject to compliance of all usual formalities.

(Shampa Sarkar, J.)