

THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 21.06.2021

CORAM:

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

Application No.1523 of 2021
in O.P.No.235 of 2014

- 1 M.Srirangarayan
H/o. Late.Mrs.Valliammal, aged about 83 years
Partner of M/s.Indian Energy Corpn.,
Muthukallipatty,
Andagalur – 637 401,
Rasipuram, Namakkal District.
 - 2 M.Vaseekaran Rayan
No.818 Windridge Lane Downing Tower
PA 19335, USA.
- Versus
- 1 Mr.K.N.Palaniappan
 - 2 Mr.C.Palanivelu
 - 3 Mrs.P.Angayarkanni
 - 4 Mr.H.S.Md.Rafi (Arbitrator)
No.1, 3rd Floor, Prince Plaza,
No.73/46-Pantheon Road,
Egmore, Chennai-600 008.
 - 5 M/S.Visaka Engg. (P) LTD.
Rep. By its Managing Director,
K.N.Palaniappan, Son of S.P.Kannappan,

L-4, SIPCOT Indl. Park Phase-II
Sriperumbudur – 602 105.

. . . Respondents

PRAYER : Application filed under Section 14(1)(a) of the Arbitration and Conciliation Act, 1996 to terminate the mandate of the 4th respondent as Arbitrator and substitute him with an another Arbitrator.

For Applicants : Mr.V.P.Sengottuvel

For Respondents : Mr.Arunachalam for R1,R3 and R5
No appearance for R2 and R4

ORDER

This application has been filed to terminate the mandate of the fourth respondent as Arbitrator and substitute him with an another Arbitrator.

2. The main contention of the learned counsel for the applicants that though Arbitrator was appointed long back, no order has been passed. Despite the order of this Court dated 29.08.2017 to complete the arbitration proceedings within a period of three(3) months, nothing has been progressed.

3. An application has been filed to implead the legal heirs of the deceased petitioner one S.Valliammal, and the same has also not seen the light of the day. No orders has been passed from the year 2017.

4. The learned counsel for the respondent submitted that the legal heirs have no objection to continue the arbitration proceedings. However, he has also submitted that the respondents have no objection for appointing another Arbitrator.

5. Having regard to the submissions, learned Arbitrator originally appointed in the year 2007 as per the agreement between the parties, from the year 2007 till date nothing has been culminated. Though some of the applicants/petitioners have died and application has been filed to implead them, no orders have been passed by the learned Arbitrator. The very long delay in keeping the matters pending without any further progress makes it very clear that the Arbitrator has to be substituted. The very object of referring the matter for Arbitration itself is for a speedy disposal.

6. In such view of the matter, this application is ordered as follows :

- i] the mandate of the fourth respondent is terminated
- and Arbitrator is substituted with an another

Arbitrator viz., Mr.Yeshod Varadhan, Senior Counsel, residing at No.21, 7th Main Road, R.A.Puram, Chennai 600 028, Mobile No.9841075397 to enter upon reference and to conclude the arbitration proceedings. The fourth respondent is hereby directed to return all the files to the newly appointed Arbitrator, Mr.Yeshodh Varadhan, learned Senior Counsel.

ii] That the learned Arbitrator appointed herein, shall after issuing notice to the parties and upon hearing them, pass an award as expeditiously as possible, preferably within a period of six months from the date of receipt of the Order.

iii] That the learned Sole Arbitrator appointed herein shall be paid fees and other incidental charges, fixed by him and the same shall be borne by the parties equally.

iv] It is also stated by the counsel that the first petitioner also died. In such view of the matter, it is open for the legal heirs to file appropriate application to implead them as parties before the learned Arbitrator.

7. This Original Petition is ordered accordingly, leaving the parties to bear their own costs.

21.06.2021

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To,

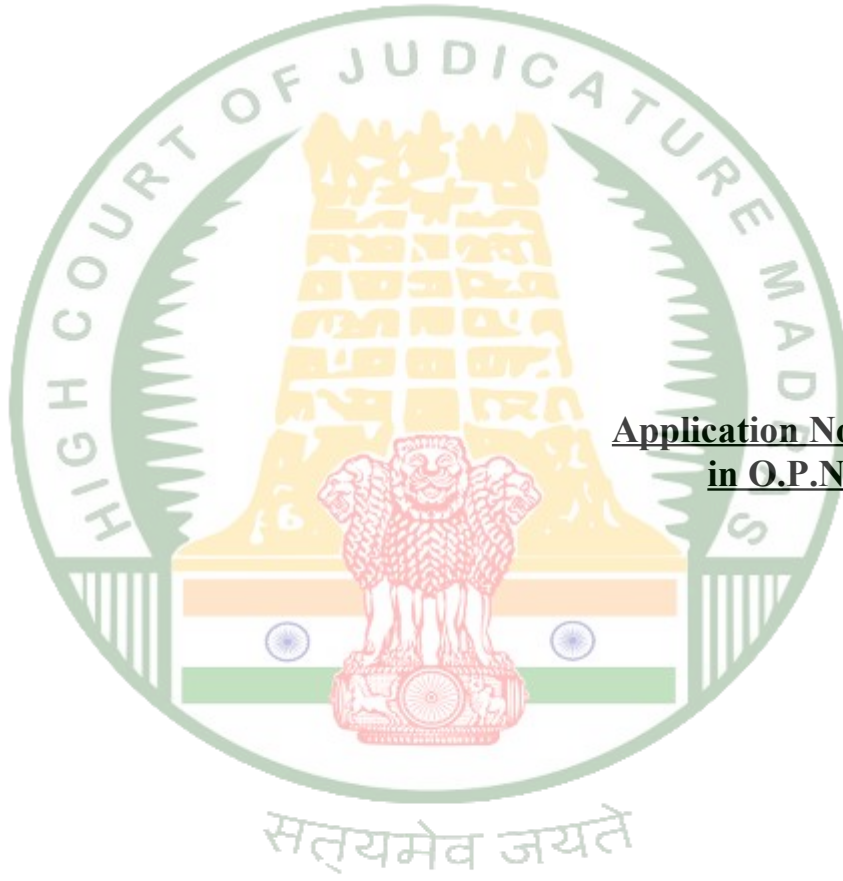
Mr.Mr.Yashod Varadhan,
Senior Counsel,
No.21, 7th Main Road, R.A.Puram,
Chennai 600 028
Mobile No.9841075397



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N. SATHISH KUMAR, J.

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