



A.No.256 of 2022
in OP.No.388 of 2021

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N. SATHISH KUMAR, J.

This petition has been filed under Section 11 of the Arbitration and Conciliation Act, 1996 to amend the cause title in O.P.No.388 of 2021 by correcting the name of the petitioner No.3 from GK Alloy Steels Pvt Ltd., having registered office at 364, Bharathiyar Road, Coimbatore 641 044 through its Authorised Signatory K.Venkatesh to Varahamurthy Ventures Pvt Ltd., formerly GK Alloys Steels Pvt Ltd., having registered office at 364, Bharathiyar Road, Coimbatore 641 044 through its authorised signatory K.Venkatesh.

2. The learned counsel for the petitioners submitted that the petitioners are presently moving this petition for a correction in the order dated 18.06.2021 in OP.No.388 of 2021 to the effect that the name of the petitioner No.3 as shown in the order and OP.No.388 of 2021 be corrected to reflect the new name of the petitioner No.3 viz., Varahamurthy Ventures Pvt Ltd., The cause title in OP.No.388 of 2021 filed before this Court had described the petitioner No.3 as “GK Alloy Steels Pvt Ltd., having registered office at 364, Bharathiar Road, Coimbatore 641 044 through its authorised signatory K.Venkatesh. The said petitioner No.3 GK Alloy Steels Private Limited., was originally incorporated in



1980 under the Companies Act, 1956. The company was allotted the unique Corporate Identity Number (CIN) of U74110TZ1980PTC000978 by the Registrar of Companies. In the year 2018, the name of the petitioner No.3 was changed from GK Alloy Steels Pvt. Ltd., to Varahamurthy Ventures Pvt Ltd.,. The change in the name and change of registered office took effect from 02.03.2018. However, due to oversight and mistake the name has been continued as GK Alloy Steels Pvt Ltd.,. On 18.06.2021 taking note of the arbitral clause and the stand of the respondent, this Court allowed the captioned petition and appointed retired Dr.Justice M.Jaichandren as the Sole Arbitrator. During the arbitral proceedings it has been pointed out by the other side that as the name has already been changed proceedings cannot be continued, in order to correct the same, the present amendment application is filed.

3. The learned counsel appearing for the respondent filed a counter and submitted that once the Court has passed an order and appointed an arbitrator under Section 11 of the Arbitration and Conciliation Act, 1996, amendment is not permissible. He further submitted that earlier order was obtained by the non-existing company, therefore the same cannot be corrected. No resolution by the company was filed at the time of filing an application and therefore the present application cannot be entertained.



4. Heard both sides.

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5. Admittedly this Court on 18.06.2021 passed an order under Section 11 of the Arbitration and Conciliation Act, 1996 and appointed an arbitrator. The third petitioner was shown as GK Alloy Steels Pvt Ltd., The arbitration also proceeded pursuant to the appointment. It is pointed out by the respondent that as the company/third petitioner name has been changed earlier. This Court passed an order under Section 11 of the Arbitration and Conciliation Act, 1996, therefore this Court becomes functus officio and it cannot pass further orders in the same application. This Court is of the view that mere correcting the name of the petitioner will not cause any prejudice to the respondent. The claim and rival claim is not based on the mere change of the company. When the Court fixed a specific date for completing the proceedings, even after passing such order the Court has power to extend the period as per the Act. That being the position merely there is no provision in the Arbitration and Conciliation Act to correct small typographical error in the name of the parties which has no bearing on the rights of the parties or prejudice the other side, it cannot be said that such a typographical error cannot be amended. Admittedly both sides made claim and counter claim before the arbitrator. Technicalities to yield to substantive rights. Such view of the matter, application is ordered and the name of the third petitioner is amended as prayed

for.



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N. SATHISH KUMAR, J.

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6. Registry is directed to carry out the necessary amendment and issue fresh order copy.

16.06.2022

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