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A.No.757 of 2022 in OP.No.880 of 2015

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OP.No.880 of 2015

M.SUNDAR, J

Mr.Ramakrishnan Veeraragavan, learned senior advocate instructed by the counsel on record for applicant/petitioner and Mr.Raghavendra Ross Divakar of M/s.Dua Associates (Law Firm) on behalf of the first respondent/first respondent are before this Court. To be noted second respondent is the sole Arbitrator who constitutes the 'Arbitral Tribunal' ['AT'] and Mr.K.Mahendra Prabu, learned counsel is before this Court.

2. Captioned application has been taken out with a prayer to permit the applicant to amend captioned OP. The amendments sought have been set out in the schedule and a careful perusal of the schedule brings to light that the petitioner wants to add five sub paragraphs to paragraph 28 of captioned OP and the five sub paragraphs sought to be added have been adumbrated as sub paragraphs (a) to (e).

3. Learned senior advocate submits that the first attempt before a Hon'ble single Judge to have the aforementioned amendments made was not successful. Matter was carried by way of an intra court appeal (along with another intra court appeal arising out of another application in captioned OP) and the two intra court



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appeals namely O.S.A. (CAD) No.85 and 101 of 2021 came to be disposed of by a common order dated 11.01.2022 made by a Hon'ble Division Bench. Learned counsel drew the attention of this Court to paragraphs 5 and 2 (in that order) of the order of Hon'ble Division Bench and the same read as follows:

'5. In view of the above, while dismissing the appeals as withdrawn, liberty as sought by the appellant, is granted and, accordingly, the parties would be at liberty to pursue their case. If the first respondent intends to oppose the Original Petition filed under Section 14 of the Act of 1996 on all available grounds, they can do so. If the course stipulated under Section 14 of the Act of 1996 is taken by the appellant, it goes without saying that the issues therein would be decided by the learned Single Judge without being influenced by the impugned order dated 30.04.2021. There is no order as to costs. Consequently, C.M.P.Nos.17241 and 16484 of 2021 are closed.'

'2. Learned senior counsel for the appellant prays for withdrawal of the appeals, however, with liberty to take remedy under Section 14 of the Act of 1996 by amending the pending Original Petition or by filing a fresh Original Petition for the aforesaid.'

4. Learned counsel for first respondent submits that objections were raised in the first round of litigation before Hon'ble single Judge and the Hon'ble Division Bench. This may not be of any relevance now as Hon'ble Division Bench has



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permitted the petitioner to take out the captioned application for amendment [to be noted, excerpted portions of the order have been extracted and reproduced supra].

Mr.K.Mahendra Prabu, learned counsel for sole Arbitrator submits that the captioned main OP is under Section 14 of 'The Arbitration and Conciliation Act, 1996' turning on termination of mandate of AT and therefore he really does not have a serious say in the matter.

5. In the light of the narrative thus far, captioned application is ordered as prayed for. Counsel on record for applicant/petitioner to carry out necessary and consequential amendments in Court records within a fortnight from today i.e., on or before 30.03.2022. Learned counsel to favour his counter parts [counsel for respondents 1 and 2] with amended copies of OP in the captioned main OP within a fortnight thereafter.

6. List main OP on 12.04.2022.

16.03.2022

kmi



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