



WEB COPY



*A.No.1679 of 2022
in Arb.O.P(Com.Div.)D.No.37203 of 2022*

A.No.1679 of 2022
in
Arb.O.P(Com.Div.)D.No.37203 of 2022

M.SUNDAR, J.,

Captioned application has been taken out with a prayer for dispensing with production of the original impugned award dated 31.07.2021 made in claim petition No.CDN/DFS/236/2020 made by an 'Arbitral Tribunal' [hereinafter 'AT' for the sake of convenience and clarity] constituted by a sole Arbitrator.

2. Mr.V.Srikanth, learned counsel for the applicants/petitioners who is before this Court submits that the first applicant in the captioned application moved two Section 11 original petitions namely, Arb O.P.Nos.77 and 78 of 2022. Post notice, the respondent (respondent in captioned application also) came before this Court and submitted that arbitral proceedings are over and the impugned award has already been made. Learned counsel submits that applicants/petitioners came to know about the impugned award only on said submission being made. In this regard, learned counsel draws the attention of this Court to paragraph No.5 of orders dated 17.03.2022 made in the aforementioned Arb OPs



A.No.1679 of 2022
in Arb.O.P(Com.Div.)D.No.37203 of 2022

WEB COPY which reads as follows:

'5. Learned counsel for petitioner on instructions from the petitioner submits that the petitioner had neither received notices from the AT nor was said award served on the petitioner notwithstanding the statutory requirement under Section 31(5) of A and C Act. This submission is recorded.'

3. To be noted, paragraph No.5 is *ad verbatim* the same in both the captioned Arb OPs.

4. Learned counsel submitted that a legible and readable copy of the impugned award was furnished to applicants/petitioners pursuant to the aforementioned directive only on 17.03.2022 and therefore, the same has to be taken as reckoning date for the purpose of sub-section(3) of Section 34 of 'The Arbitration and Conciliation Act, 1996 (Act No.26 of 1996)' [hereinafter 'A and C Act' for the sake of convenience and clarity].

5. In the light of the earlier judicial orders, prayer for dispensing with the production of original impugned award is acceded to for the present albeit with a caveat that Section 31(5) of A and C Act ground and



*A.No.1679 of 2022
in Arb.O.P(Com.Div.)D.No.37203 of 2022*

question as to whether a signed copy of the impugned award was served on applicants/petitioners will be tested on its own merits and in accordance with law if raised in Section 34 petition. If a contra position emerges from the records of AT it will be open to Section 34 Court to hold that Section 34 petition is barred by limitation. In other words, the question of limitation is left open. All rights and contentions of the respondents in this regard are also preserved for being raised in main Section 34 petition, if the need arises.

6. Captioned application is ordered in above manner subject to the aforementioned caveat.

7. Registry to process the captioned Arb OP D.No.37203 of 2022, assign a number and list it on Board if otherwise in order.

13.04.2022

mk

M.SUNDAR.J.,



WEB COPY



*A.No.1679 of 2022
in Arb.O.P(Com.Div.)D.No.37203 of 2022*

mk

A.No.1679 of 2022
in
Arb.O.P(Com.Div.)D.No.37203 of 2022

13.04.2022