



WEB COPY



A.No.3627 of 2022

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in

O.P.No.87 of 2018

SENTHILKUMAR RAMAMOORTHY,J

This application is presented by the claimant before the arbitral tribunal under Section 29-A (4), (5), (6) & (7) of the Arbitration and Conciliation Act 1996(the Arbitration Act).

2. Although the application is filed under the above mentioned provisions, the applicant does not seek an extension of the mandate of the existing arbitral tribunal. Instead, the applicant seeks re-constitution of the arbitral tribunal and an extension of the mandate of such re-constituted arbitral tribunal.

3. In support of this application, learned counsel for the applicant draws reference to sub section 6 and 7 of Section 29-A, which enable the Court to substitute one or all of the arbitrators while considering an application under Section 29-A. Learned counsel also



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invited my attention to a communication dated 19.07.2022 in which it is stated *inter alia* that “there is undue delay on the part of Ld. Arbitrator to complete the arbitration proceedings within a period of 12 months as prescribed under the provisions of the Arbitration & Conciliation Act 1996. Consequently, Ld. Arbitrator has lost mandate to conduct arbitration.” By adverting to the reply of the learned Arbitrator to this letter, learned counsel states that the letter evidences bias on the part of the learned Arbitrator.

4. In effect, the applicant seeks termination of the mandate of the arbitral tribunal for failure to act without undue delay. Undoubtedly, Section 14 of the Arbitration Act enables a person aggrieved by undue delay to file a petition seeking termination of mandate on such ground. The arbitrator(s) is/are required to be joined as party/parties to such proceeding. The termination of mandate cannot be indirectly achieved by filing an application under Section 29-A and not joining the Arbitrator as a party thereto.



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5. This application has also been opposed by the respondent by filing a detailed counter.

6. For reasons set out above, this application is dismissed by leaving it open to the applicant to file an appropriate petition under Section 14 of the Arbitration and Conciliation Act 1996 seeking termination of the mandate of the arbitral tribunal by joining the respondent herein and the learned Arbitrator as parties to such petition.

08.11.2022

Index : Yes/No
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