



Application No.2376 of 2023 in O.P.No.676 of 2019

WEB CO **KRISHNAN RAMASAMY, J.**

This Court vide its order dated 23.10.2019 in O.P.No.676 in 2019, appointed Hon'ble Mr.Justice K.N.Basha (Retired Judge of this Court) as Sole Arbitrator in this matter. While so, the learned Arbitrator sent a Letter dated 02.12.2022 to the learned counsel on either side, wherein, he has stated that due to his present health condition, he is not in a position to continue in this matter as an Arbitrator. Hence, the applicant has filed this Application seeking to substitute the present learned Arbitrator Hon'ble Mr.Justice K.N.Basha (Retired Judge of this Court) with some other retired Judge of this Court to continue the arbitration proceedings and to resolve the dispute between the parties herein.

2. Today, when this application was taken up for consideration, the learned Senior Counsel appearing for the respondent has filed a Memo dated 08.06.2023 before this Court, wherein, it has been stated that the respondent has proposed the names of Hon'ble Mr.Justice K.Venkataraman (Retired Judge of this Court) and Hon'ble Mr.Justice N.Kirubakaran (Retired Judge of this Court), for appointment of new Arbitrator. The learned Senior Counsel for the applicant had also suggested few names for the appointment of new Arbitrator. Further, the learned counsel on either side prayed this Court to substitute the present learned Arbitrator Hon'ble Mr.Justice K.N.Basha (Retired Judge of this Court) by appointing one of the above mentioned retired Judges as new Arbitrator.



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3. Upon hearing the learned counsel on either side, this Court suggested the name of Hon'ble Mr. Justice N. Kirubakaran (Retired Judge of this Court) for appointment of new Arbitrator. Both the learned Senior counsels had also agreed for the said suggestion.

4. Considering the above circumstances and having regard to the submissions made by the learned Senior Counsel on either side, this Court is inclined to pass the following order:

(i) The Hon'ble Mr. Justice N. Kirubakaran (Retired Judge of this Court), No.14, 13th Cross Street, Phase – III, Wood Creek County, Nandambakkam, Chennai, Mobile No.9445025454 is appointed as new Arbitrator to enter upon reference and adjudicate the dispute *inter se* the parties.

(ii) The newly appointed learned Arbitrator shall pass award within a period of six months from the date of receipt of a copy of this order, only after issuing notice to the parties and hearing them.

(iii) The parties shall pay fees and other incidental charges to the newly appointed learned Arbitrator fixed by him, equally.

(iv) In the event of non-appearance of the respondent before the learned Arbitrator, petitioner shall pay the entire remuneration and other expenses at first instance and thereafter, petitioner can recover the same directly from the respondent.



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5. Accordingly, this Arbitration Application is ordered. The parties shall bear their own costs. Since this Court has appointed a new Arbitrator, it is open to the petitioner as well as the respondent to seek other reliefs under the provisions of Arbitration and Conciliation Act 1996, before the Arbitrator.

08.06.2023

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Note to Registry: Issue order copy on 13.06.2023



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KRISHNAN RAMASAMY, J.

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