



A.No.1491 of 2024
in
A.No.200 of 2024
in
Arb.O.P.Sr.No.37221 of 2020

C.SARAVANAN, J.

This application has been filed to set aside the order dated 11.03.2024 was passed by the learned Master in A.No.200 of 2024 in A.Sr.No.55468 of 2023 in A.No.4875 of 2023 in Ar.O.P.(Sr)No.37221 of 2020.

2. The case of the applicant is that the impugned award was passed by the sole Arbitrator on 01.09.2012, pursuant to which, the respondent had initiated Execution Proceedings in E.P.No.101 of 2013. In the aforesaid proceedings, the petitioner applied for a certified copy of Award and obtained the same on 04.09.2014.

3. In the said proceedings, the petitioner had also filed Application No.7117 of 2014 under Section 47 of the CPC questioning the executability of the Award on the ground that the entire proceeding was a nullity for want of proper and prior notice. The said application was



however dismissed as not maintainable on 12.11.2018 by the learned Master.

4. Thereafter, A.Nos.1994 & 1995 of 2019 were filed challenging the orders of the learned Master dated 12.11.2018 in A.Nos.7117 of 2014 and 2757 of 2015 in E.P.No.101 of 2013. The above said applications were dismissed on 14.03.2019. While dismissing A.Nos.1994 & 1995 of 2019, it was however also made clear that the dismissal of the applications will not prevent the applicant from instituting appropriate questioning the award subject to law of limitation.

5. Aggrieved by the said order dated 14.03.2019 in A.Nos.1994 of 2014 and 1995 of 2019, the applicant filed the appeal before the Hon'ble Division Bench of this Court in O.S.A.Nos.112 & 113 of 2019. O.S.A.Nos.112 & 113 of 2019 was also dismissed on 13.02.2020. The Hon'ble Division Bench vide its order dated 13.02.2020 also concluded that since the petitioner entertained a bonafide belief and therefore was entitled to the benefit of Section 14 of the Limitation Act,1963.



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6. Pursuant to the aforesaid order dated 13.02.2020 of the Hon'ble Division Bench in O.S.A.Nos.112 & 113 of 2019, the petitioner filed the above Arb.O.P(Sr)No.37221 of 2020 dated 18.03.2020 wherein the petitioner has challenged the impugned award.

7. The above said Arb.O.P(Sr)No.37221 of 2020 was returned few defects for compliance. However, the applicant failed to re-present the paper in time. Thus there was a delay in re-presentation of the petition in time. Meanwhile, objection relating maintainability of the Arb.O.P(Sr)No.37221 of 2020 by the Registry was overruled vide order dated 18.10.2022. Thus, the Court directed Arb.O.P(Sr)No.37221 of 2020 to be numbered.

8. In the background A.No.4875 of 2022 was filed for condoning a delay of 85 days in re-presenting the Arb.O.P(Sr)No.37221 of 2022. A.No.4875 of 2022 was however dismissed by the Master for non prosecution.



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9. The case of the applicant/petitioner is that the learned counsel for the applicant/petitioner was unwell and was therefore unable to appear before the Court when A.No.4875 of 2022 was called. Hence, it was dismissed for default for no fault of the applicant/petitioner. Hence, A.Sr.No.55468 of 2023 was filed to restore A.No.4875 of 2022. The Registry however returned A.Sr.No.55468 of 2023 for defects pointed out by it. Once again there was a delay in re-presentation of A.Sr.No.55468 of 2023. Hence A.No.200 of 2024 was filed to condone the delay of 176 days in re-presenting A.Sr.No.55468 of 2023.

10. The learned Master has dismissed A.No.200 of 2024 filed for condoning the delay on the ground that the petitioner has been taking undue advantage of proceedings and A.No.200 of 2024 lacked *bonafide*.

11. The learned counsel for the respondent would submit that the order does not call for any interference and therefore prayed for dismissal of the application.



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12. By way of rejoinder, the learned counsel for the applicant would submit that the learned Master does not have jurisdiction to dispose the applications in the light of decision of this Court in **Millenium Steel India Pvt.Ltd rep.by its Managing Director, D.Hari Prasad Reddy and Reckitt Benckiser(India) Pvt.Ltd, 2022(1)CTC 1.**

13. I have considered the arguments advanced by the learned counsel for the applicant and the learned counsel for the respondent.

14. I am of the view that the dismissal of Application No.200 of 2024 for condoning the delay respectively is to be revised and therefore Application Sr.No.55468 of 2023 filed to restore the Application No.4875 of 2022 also deserves to be allowed on terms.

15. I also see no point is not allowing A.No.4875 of 2022 to condone the delay in re-presenting the Arb.O.P(Sr)No.37221 of 2020 along with other application. The applicant/petitioner shall provide adequate security to the respondent/Award Holder.



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16. Registry is therefore directed to number the Original Petition if the papers are in order, within a period of 10 days from today.

Therefore, the above mentioned application filed is allowed on terms with a view to safe-guard the interest of the respondent/Award Holder.

17. The applicant/petitioner shall therefore deposit a sum of Rs.15,00,000/- to the credit of Arb.Original Petition within a period of 10 days of it being numbered. In case, there is failure to comply with this order by the applicant/petitioner, the Original Petition will stand dismissed *sine die* without further reference to this court .

18. All these applications namely A.No.1491 of 2024, A.No.4875 of 2022 and A.No.200 of 2024 stand allowed with the above observation and direction.

19. If there is compliance by the applicant/petitioner the learned counsel for the applicant and the respondent shall file a common convenience set consisting of pleadings and evidence before the Arbitral Tribunal together with the Award of the Arbitral Tribunal and another common convenience set consisting of documents marked before the



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Arbitral Tribunal arranged chronologically indicating the exhibit numbers. They shall also file list of date and events and written submission if any.

List the case for compliance on 15.04.2024.

18.03.2024

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C.SARAVANAN,J.

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18.03.2024