



WEB COPY

Arb.Appln.No.6018 of 2024



Reserved on: 27.11.2024

Pronounced on:29.11.2024

Arb.Appln.No.6018 of 2024
in
Arb. O.P.(Com.Div) No.435 of 2024
P.B.BALAJI, J.

This application has been taken out in Arb.O.P.(Com.Div) No.435 of 2024 to stay the award of the sole Arbitrator, Mr.P.Rosaiah, dated 02.07.2021 in Arbitration Case No.1605 of 2019.

2. Despite service of notice, the first respondent/the contesting first respondent, has not appeared in person or through a counsel. However, I have heard Mr.T.Gowthaman, learned Senior Counsel for Mrs.S.Karpagapriya, appearing for the applicants/petitioners.

3. The learned Senior Counsel for the applicants, Mr.T.Gowthaman would submit that the first respondent had initiated arbitration proceedings against the husband and father of the petitioners respectively, viz., Nallathambi, who passed away on 11.05.2014.

4. According to the first respondent, the said Nallathambi stood as a guarantor for the loan availed of by the second respondent in the year 2008 for purchase of a HITACHI EXCAVATOR vehicle. According to the Applicants, their father never executed any guarantee and award was passed exparte against the legal heirs of deceased Nallathambi.

5. The learned Senior Counsel further stated, even the copy of the



award was not served on the petitioners by the Arbitrator as mandated under the Arbitration and Conciliation Act, 1996 (in short 'Act') and the petitioners came to know of the award only when the employees of the first respondent visited the house and informed them about the award. Thereafter, the petitioners have requested the Arbitrator to furnish a copy of the award and after the visit of the same, the above Arb.O.P.(Com.Div) No.435 of 2024 has been filed. The learned Senior Counsel further stated that the Arbitrator is also one amongst the panel of arbitrators of the first respondent Company, which he has failed to disclose as mandated under law.

6. The learned Senior Counsel therefore contended that the Arbitrator has violated Section 12 of the Act and even on this ground, the award has to be stayed. The learned Senior Counsel would also bring to my notice the decision of this Court in OP No.656 of 2018 dated 29.08.2019, where in respect of appointment of sole Arbitrator between the petitioner therein, the Finance Company and the first respondent herein, this Court had come down heavily on the conduct of the first respondent in appointing the very same Arbitrator.

7. This Court also referring to Section 12(1)(b) of the Act and the explanations thereto, held that it gave rise to justifiable doubts as to



Arb.Appln.No.6018 of 2024

independence and impartiality of the Arbitrator. The said order is brought to my notice by the learned Senior Counsel, since the same Arbitrator who was discussed in the said order has been appointed by the first respondent herein also. In view of the above, I am satisfied that the Applicants/petitioners have made out a prima facie case for grant of interim stay of the award of the sole Arbitrator, Mr.P.Rosaiah, dated 02.07.2021 in Arbitration Application No.1605 of 2019.

8. In fine, this Application is ordered and consequently, there shall be an order of interim stay.

9. Notice to the respondents returnable by 16.12.2024. Private Notice is also permitted.

10. Post the Arb.O.P. (Comm.Div) No.435 of 2024 on 16.12.2024.

29.11.2024

rkp

P.B.BALAJI, J.

rkp



WEB COPY

Arb.Appln.No.6018 of 2024



Arb.Appln.No.6018 of 2024
in
Arb. O.P.(Com.Div) No.435 of 2024

29.11.2024