



A.No.1644 of 2025

Application No.1644 of 2025

WEB COPY **ABDUL QUDDHOSE, J.**

Power & Instrumentation (Guj) Ltd.,
Ahmedabad.

.. Applicant

Vs.

Chennai Port Trust,
Chennai.

.. Respondent

For Petitioner : Mr.Mahesh Kumar

For Respondent : Mr.K.Manoj Menon

This application has been filed under Section 29A of the Arbitration and Conciliation Act, 1996 (in short “the Act”), seeking extension of time for the Arbitrator to pronounce the arbitral award by another period of 6 months.

2. The learned counsel for the applicant would submit that in view of the substitution of the Arbitrator, there was a delay in completing



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recording of evidence by the present Arbitrator, and in view of the same, the mandate of the Arbitrator got terminated and therefore, it became necessary for the applicant to file the present application. He would further submit that before the Arbitral Tribunal, both the counsels made a representation that they will be filing an application seeking extension of time for the Arbitrator to pronounce the arbitral award, since the mandate of the Arbitral Tribunal is getting expired.

3. A counter affidavit has been filed by the respondent questioning the existence of the arbitration agreement between the applicant and the respondent.

4. Admittedly, 7 years before, i.e., on 27.04.2018, an Arbitrator was appointed by this Court through an order passed in O.P.No.87 of 2018 under Section 11 of the Act. The respondent has also participated in the arbitration and has also filed their statement of defense. The Arbitrator appointed by this Court earlier was substituted through an order passed by this Court on 28.03.2024 under Section 14 of the Act. The said fact is also not disputed by the learned counsel for the



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respondent. If the plea of the respondent that there exists no arbitration agreement between the parties, that too, after a period of 7 years, is entertained by this Court under Section 29A of the Act, it would amount to setting aside the earlier orders passed by this Court under Section 11 of the Act as well as under Section 14 of the Act.

5. Admittedly, no review petition has been filed by the respondent seeking to review the orders passed by this Court under Section 11 of the Act as well as under Section 14 of the Act. Therefore, when those two orders stand, the question of interference by this Court, that too, in an application filed under Section 29A of the Act seeking extension of time for the Arbitrator to pronounce the arbitral award, does not arise, and such a plea is not maintainable.

6. After hearing the submissions of both the counsels, when this Court has expressed its view that defense raised by the respondent through their counter affidavit filed in this application has to be summarily rejected and this Court will be constrained to impose cost on the respondent on account of such a frivolous plea having been taken,

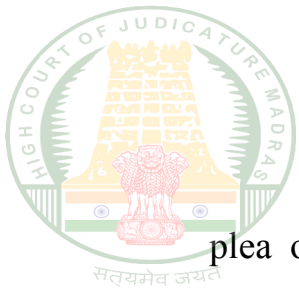


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that too, when the respondent has not filed any review application

seeking to review the orders passed by this Court under Section 11 of the Act as well as under Section 14 of the Act, the learned counsel for the respondent would submit that the respondent will be satisfied if the respondent is permitted to raise all the grounds that have been raised before this Court through their counter affidavit in this application in case they suffer an arbitral award under Section 34 of the Act. Section 34 of the Act enables a party aggrieved by an arbitral award to raise grounds which fall under any of the parameters laid down in Section 34 of the Act, which includes the contention raised by the respondent through their counter affidavit filed in this application, namely, non-existence of the arbitration agreement between the applicant and the respondent.

7. Eventhough this Court, at the first instance, was inclined to impose cost on the respondent for having raised the aforesaid frivolous plea, this Court after giving due consideration to the submission of the learned counsel for the respondent made subsequently, is not imposing cost on the respondent, since the respondent has now agreed to raise the



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plea of non-arbitrability of the dispute through a petition to be filed

under Section 34 of the Act in case they suffer an arbitral award. The only criteria that has to be considered while deciding an application under Section 29A of the Act is to see whether sufficient cause has been shown by the applicant or not for seeking extension of time under Section 29A of the Act. Since there was substitution of Arbitrator on account of expiry of the mandate of the Arbitrator appointed earlier under Section 11 of the Act, this Court is of the considered view that sufficient cause has been shown by the applicant for seeking extension of time for the Arbitrator to pronounce the arbitral award. Admittedly, the arbitration is in the arguments stage and is on the verge of final disposal.

8. Since sufficient cause has been shown by the applicant for seeking extension of time under Section 29A of the Act and that too when both the counsels had submitted before the Arbitral Tribunal that they will be filing an application seeking extension of time for the Arbitral Tribunal to pronounce the arbitral award, this Court will have to necessarily allow this application as prayed for.



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9. Accordingly, this application is allowed as prayed for by granting extension of time for the Arbitrator to pronounce the arbitral award by another period of six months from the date of receipt of a copy of this order. However, liberty is granted to the respondent, in case they suffer an arbitral award, to raise all objections through their application filed under Section 34 of the Act challenging the arbitral award.

15.04.2025

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