



A. No.6113 of 2023

R.P.S. Mahendhiran

... Applicant

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Vs.

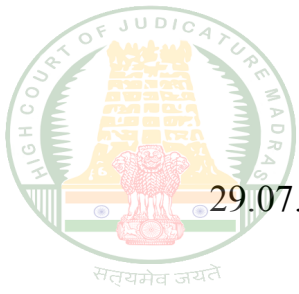
R. Sarasu

... Respondent

ABDUL QUDDHOSE.J.,

This application has been filed under Section 29A of the Arbitration and Conciliation Act, 1996, seeking extension of time for the arbitrator to pronounce the arbitral award. Earlier, this application was allowed by this Court and the respondent had taken the matter on appeal to a Division Bench of this Court. The Division Bench of this Court, while setting aside the order of the learned Single Judge passed earlier in this application, remanded the matter back to this Court once again for fresh consideration since the respondent did not file the counter in this application earlier. Now, the counter has been filed by the respondent in this application.

2. A direction has been issued by the Division Bench of this Court through its order dated 27.06.2024 passed in O.S.A. (CAD) No.57 of 2024, requesting this Court to preferably dispose of this application by



29.07.2024.



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3. The following reasons have been given by the applicant for seeking extension of time for the arbitrator to pronounce the arbitral award:

a) Arbitral Tribunal was appointed under Section 11 of the Arbitration and Conciliation Act, 1996 in O.P.No.37 of 2020 on 16.04.2021;

b) Completion of pleading got completed before the arbitrator on 25.02.2022;

c) 12 months period got elapsed from the date of completion of the pleadings on 25.02.2023;

d) This application was filed before this Court under Section 29A of the Arbitration and Conciliation Act, 1996 on 31.10.2023.

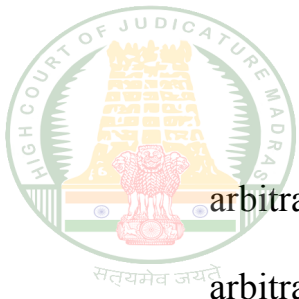
4. This application was allowed earlier by this Court on 02.01.2024. However, the respondent took it on appeal before the Division Bench. The Division Bench of this Court dated 27.06.2024 passed in O.S.A. (CAD) No.57 of 2024 had set aside the order passed by the learned Single Judge on 02.01.2024 and remanded the matter back to this Court once again for fresh



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consideration after permitting the respondent to file counter in this application. As directed by the Division Bench, the respondent also filed its counter within the stipulated time fixed by the Division Bench.

5. This is the first application filed by the applicant, seeking extension of time by the arbitrator to pronounce the arbitral award. The learned senior counsel appearing for the respondent would submit that the arbitrator, who is deciding the matter has personal bias against the respondent and therefore, he has requested this Court for substitution of the arbitrator by exercising its powers under Section 29A (6) of the Arbitration and Conciliation Act, 1996. However, the learned counsel for the applicant would submit that the allegations made against the arbitrator by the respondent is not true. On instructions, he would submit that the applicant is not willing for substitution of arbitrator by this Court. When there is no evidence available before this Court that the arbitrator, who is adjudicating the dispute between the parties, is having personal bias against the respondent, the question of substituting the arbitrator in an application under Section 29A of the Arbitration and Conciliation Act, 1996, does not arise that too when the applicant is not giving consent for substitution of the



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arbitrator. If at all, the respondent is aggrieved by the conduct of the arbitrator in the arbitral proceedings and in case they suffer an arbitral award due to the same, their remedy is only to file an application under Section 34 of the Arbitration and Conciliation Act, 1996, challenging the arbitral award by also raising the ground of bias as against the arbitrator. In an application filed under Section 29A of the Arbitration and Conciliation Act, 1996, that too when there is no evidence to substantiate the contention of the respondent that the arbitrator is having personal bias towards the respondent, this Court cannot substitute the arbitrator.

6. The reasons given by the applicant for seeking extension of time, as recorded supra by this Court, are sufficient reasons for seeking extension of time. It is also to be noted, as observed earlier, that this is the first extension sought for by the applicant for extending the mandate of the arbitrator. Since sufficient cause has been shown by the applicant for seeking extension of time for the arbitrator to pronounce the arbitral award by another period of six months, this Court is allowing this application.



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7. Accordingly, this application is allowed as prayed for by extending the time for passing of the arbitral award by the arbitrator for another period of six months from the date of receipt of a copy of this order. However, liberty is granted to the respondent to raise all objections available to the respondent under law before the arbitrator.

02.07.2025

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ABDUL QUDDHOSE.J.,

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02.07.2025