



Application No. 5781 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.06.2025

CORAM

THE HONOURABLE Mr. JUSTICE ABDUL QUDDHOSE

Application No. 5781 of 2022
in O.P. No. 364 of 2017

Gemini Communication Limited
Represented by Liquidator
No.15/35, Musafar Jung Bahadur Street
Triplicane, Chennai-600005.

... Applicant

Vs.

Bharat Sanchar Nigam Limited
Represented by its DGM, STP
No.25, Greenway Lane, R.A.Puram
Chennai-600028.

...Respondent

PRAYER: Application filed under Order XIV Rule 8 Original Side Rules read with Section 29(A)(4), 29(A)(5), 29(A)(6) and 29(A)(7) of the Arbitration and Conciliation Act, 1996, praying to appoint a Arbitrator and reconstitute a new Arbitral Tribunal.

For Applicant : Mr.D.Ganesh Raj

For Respondent : Mr.T.R.Rajagopalan, Senior Counsel
For M/s.S.Gopinathan

O R D E R

This application has been filed seeking for substitution of an Arbitrator.



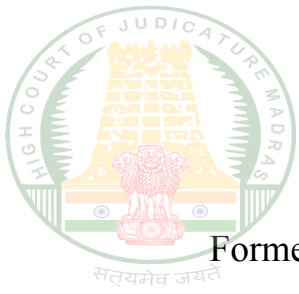
Application No. 5781 of 2022

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2. There became a necessity for the applicant represented by the Liquidator to file this application since the arbitrator, who was earlier adjudicating the dispute, has recused himself from acting as an Arbitrator due to health reasons. A detailed counter has been filed by the respondent raising objections with regard to the applicant's claim in the arbitral proceedings.

3. Admittedly, the arbitrator who was earlier adjudicating the dispute between the parties has recused himself from acting as the arbitrator on account of health reasons. In view of the same, necessarily the Arbitrator has to be substituted by a new Arbitrator in accordance with the provisions of Section 15 of the Arbitration and Conciliation Act, 1996. As per the said section, once an Arbitrator withdraws himself from his office, this Court is empowered to substitute the Arbitrator by a new Arbitrator.

4. Both the counsels, on instructions have now made a joint endorsement in the Court bundle stating that the applicant and the respondent are agreeable for substituting Hon'ble Justice N.Kirubakaran,



Application No. 5781 of 2022

Former Judge of this Court, as the sole Arbitrator to adjudicate the dispute between the parties arising out of the Arbitration Agreement dated 28.06.2010, which is the subject matter of the dispute between the parties in the place of the earlier Arbitrator.

5. The learned Senior Counsel appearing for the respondent [BSNL] also seeks liberty of this Court for the respondent [BSNL] to raise all objections that have been filed through their counter in this application before the substituted Arbitrator, Hon'ble Justice N.Kirubakaran, Former Judge of this Court.

6. No prejudice would be caused to any of the parties, if such a liberty is granted by this Court. After recording the joint endorsement made by both the counsels on instructions from their respective clients, this Court appoints Hon'ble Justice N.Kirubakaran, Former Judge of this Court, as the substituted Arbitrator as per the provisions of the Arbitration and Conciliation Act, 1996 in the place of the earlier Arbitrator, who has recused himself from acting as the Arbitrator.



Application No. 5781 of 2022

7. The substituted Arbitrator shall be paid his fees in accordance with Schedule – IV of the Arbitration and Conciliation Act, 1996 or by mutual agreement between the parties. The Arbitrator shall adhere to the provisions of the Arbitration and Conciliation Act, 1996 and shall proceed with the arbitration from the stage the earlier Arbitrator, who has recused himself from acting as the Arbitrator, had left the arbitral proceedings.

8. Extension of time has also been sought for by both the counsels for the substituted arbitrator to pronounce arbitral award. After giving due consideration to the stage of the arbitration and the nature of the claim and counter claim, this Court grants extension of time for the substituted Arbitrator to pronounce arbitral award by another period of twelve months from the date of receipt of a copy of this order.

9. Liberty is also granted to the respondent to raise all objections, which have been raised in their counter in this application to raise the same before the substituted Arbitrator in accordance with the provisions of the Arbitration and Conciliation Act, 1996.



Application No. 5781 of 2022

WEB COPY 10. With the aforesaid directions, this application is disposed of.

No costs.

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17.06.2025

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Application No. 5781 of 2022

ABDUL QUDDHOSE, J.

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Application No. 5781 of 2022
in O.P. No. 364 of 2017

Dated : 17.06.2025