HC-KAR

NC: 2026:KHC:38454
CMP No. 398 of 2025

CNR: KAHC010454592025

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 23RD DAY OF JULY, 2026

BEFORE

THE HON'BLE MR. JUSTICE B M SHYAM PRASAD

CIVIL MISC. PETITION NO. 398 OF 2025

BETWEEN:

SRI M VISHWARAJ,
AGED ABOUT 60 YEARS,
CIVIL ENGINEERING CONTRACTOR,
NO.1787, 18TH A,
J.P. NAGAR II PHASE,
BANGALORE-560078.

...PETITIONER

(BY SRI. VASU DEVA NAIDU S., ADVOCATE)

AND:

UNION OF INDIA
REP.BY
THE GENERAL MANAGER,
SOUTH WESTERN RAILWAY,
GADAG ROAD, HUBLI.

...RESPONDENT

(BY SMT. RESHMA KT., ADVOCATE)

THIS CMP FILED UNDER SECTION 11(5) OF THE ARBITRATION AND CONCILIATION ACT, PRAYING TO APPOINT A SOLE ARBITRATOR UNDER SECTION 11(5) OF THE ARBITRATION AND CONCILIATION ACT 1996 OT

RESOLVE THE DISPUTES AND OUTSTANDING ISSUES BETWEEN THE PARTIES IN ACCORDANCE WITH THE PROVISION CLAUSE 63(1) OF GCC OF AGREEMENT BEARING NO.3CE /84 DATED 20.07.1984 MARKED AS ANNEXURE B CONSONANCE WITH ARBITRATION AND CONCILIATION (AMENDED) ACT, 1996.

THIS PETITION, COMING ON FOR ADMISSION, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:
CORAM: HON'BLE MR. JUSTICE B M SHYAM PRASAD

ORAL ORDER

The petitioner, who has entered into an Agreement dated 20.07.1984 with the respondent for construction of a New Divisional Office, has invoked this Court's jurisdiction under Section 11 of the Arbitration and Conciliation Act, 1996 [for short '*the Act*'] for appointment of a sole arbitrator and this request is opposed by the respondent. Ms. Reshma K.T., the learned counsel for the respondent, argues the following:

[A] The petitioner relies upon an agreement of the year 1984 for the appointment of an arbitrator after about 40 years and this must be a

condition against exercising this Court's jurisdiction.

[B] The petitioner filed a suit in Arbitration Suit No.17/2000 under Section 20 of the Arbitration Act, 1940 which is decided on 30.11.2000 directing the General Manager with the respondent to refer the petitioner's claim for arbitration.

[C] The Arbitral Tribunal is constituted, and the petitioner has filed a claim on 07.11.2003.

[D] The petitioner, without prosecuting this claim, has filed an application under Section 14 of the Arbitration and Conciliation Act,1996 [for short, "*the Act*"] to terminate the mandate of

the tribunal and for appointment of a sole arbitrator.

Ms. Reshma K.T, relying upon these circumstances, canvasses that this Court must reject the petition on the ground of the claim being deadwood. Sri Vasudeva Naidu S, the learned Counsel for the petitioner, in rebuttal submits that the respondent has not called in question the order dated 30.11.2000 in Arbitration Suit No.17/2000 or the order dated 19.09.2024 in A.A.19/2020 and that having not called these orders in question the respondent cannot assert that the petitioner has not prosecuted the claim and therefore is a deadwood.

Sri Vasudeva Naidu S submits that the petitioner has filed a claim petition on 07.11.2003 immediately after the constitution of the Tribunal in terms of the Order dated 30.11.2000 in Arbitration Suit No.17/2000 and the petitioner's case that the Tribunal has not decided on the claim petition stands

vindicated with the termination of the mandate of the Tribunal by the order dated 19.09.2024 in Arbitration Appeal No. 19/2020.

This Court, from the afore circumstances, must opine that the petitioner's claim is deadwood to reject the application. As pointed out by Sri Vasudeva Naidu, the mandate of the Tribunal, which has entered reference of the dispute after the orders in Arbitration Suit No.17/2000, is terminated only on 19.09.2024 in Arbitration Appeal No.19/2020 and the respondent has accepted this order. In these circumstances, whether the petitioner's claim for amount is time-barred or stands defeated by delay and laches is a matter that must be examined in the arbitral proceedings and cannot be called deadwood at this stage to reject the petition. In the light of the afore, the following,

ORDER

[A] The petition is allowed, and Hon'ble Mr. Justice A.N. Venugopala Gowda, a former Judge of this Court, is appointed as the sole arbitrator to enter reference of the dispute between the petitioner and respondent and conduct the proceeding at the Arbitration and Conciliation Centre [Domestic and International], Bengaluru according to the Rules governing the Arbitration and Conciliation Centre [Domestic and International], Bengaluru.

[B] The Registry is directed to communicate this order [through email] to the Arbitration and Conciliation Centre [Domestic and International], Bengaluru and Hon'ble Mr. Justice A.N.

Venugopala Gowda, No.426/27-1, Opp. BES College Ladies Hostel, 33rd Cross, 18th Main, 4th 'T' Block Jayanagar, Bengaluru 560 041. [*email*: *anvgowda55@gmail.com*] as required under the Appointment of Arbitrators by the Chief Justice of Karnataka High Court Scheme, 1996.

[C] The submissions of the learned counsels that the addresses of the parties as mentioned in the cause title are also the current addresses of the parties is taken on record, and the parties are directed to appear before the Director, the Arbitration and Conciliation Centre [Domestic and

International], Bengaluru, on

21.09.2026 at ***11.30 am***.

Sd/-
(B M SHYAM PRASAD)
JUDGE

NV