

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10-03-2026

CORAM

THE HON'BLE MR JUSTICE SENTHILKUMAR RAMAMOORTHY

Application No. 1132 of 2026

Coimbatore Integrated Waste Management
Company Private Limited,
No.2A, Kansas Avenue,
Trilok Apartments, Sitra
Coimbatore - 641 014.
Rep. by its Senior General Manager
Mr. R.Sathya Murti

..Applicant/Claimant

Vs

Coimbatore City Municipal Corporation
Big Bazar Street,
Coimbatore - 641 001,
Rep. by its Commissioner.

..Respondent

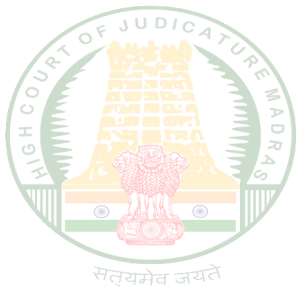
Prayer: Application is filed under Order XIV Rule 8 of the Original Side Rules
Read With Section 29A(4) of the Arbitration and Conciliation Act, 1996, to
extend the mandate of the Arbitral Tribunal for a further period of 6 months to
enable the Arbitral Tribunal to pass the Award.

For Applicant:

Mr. M. Narendran
for M/s King & Partridge

For Respondent:

Mr. K. Magesh



ORDER

WEB COPY

The applicant is the claimant before the Arbitral Tribunal. After applying to the Commercial Court, Coimbatore, seeking extension of the mandate of the Arbitral Tribunal, the applicant has approached this Court for the same relief in view of the observations/objections of the Commercial Court that jurisdiction should be ascertained.

2. Learned counsel for the applicant submits that the judgment of the Hon'ble Supreme Court in *Jagdeep Chowgule v. Sheela Chowgule and others*, 2026 SCC OnLine SC 124 (*Jagdeep Chowgule*) was brought to the attention of the Commercial Court, but the Court requested for clarification especially in view of Practice Direction 7.1 issued pursuant to sub-rule (v) of Rule 12 of the Madras High Court (Arbitration) Rules, 2020 (the Arbitration Rules). Learned counsel also points out that this Court had granted an extension earlier in A. No.2473 of 2025.

3. Section 29A(4) of the Arbitration and Conciliation Act, 1996 (the A&C Act) enables the Court to extend the mandate of an arbitral tribunal either prior to or after the expiry of the period prescribed in sub-sections (1) and/or (3) of Section 29A. In *Jagdeep Chowgule*, the Hon'ble Supreme Court examined as



to which court should be approached for this purpose in matters where the arbitrator is appointed by a high court and held as under :

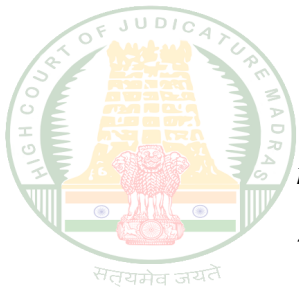
WEB COPY

“23. Nimet Resources (Supra) clarifies two propositions of enduring relevance. First, that applications concerning conduct, continuation, termination or substitution of an arbitral mandate, whether under Section 14 or otherwise, are matters of curial supervision and must be instituted before the "Court" as statutorily defined. Second, that the jurisdiction exercised under Section 11 is limited and exhausted upon the constitution of the arbitral tribunal, leading to the appointing Court becoming functus officio thereafter. These principles apply with equal force to Section 29A. The extension of mandate or substitution of an arbitrator under Section 29A does not partake the character of "appointment" under Section 11, but is a measure designed to ensure timely conclusion of arbitration. Absence of any contextual indicia to the contrary, the expression "Court" in Section 29A must, therefore, be accorded the meaning assigned to it under Section 2(1)(e). ”

4. The Supreme Court also took note of the issue relating to the applicability of Section 42 to proceedings under Section 11 of the statute. In that context, it was held as under:

“IX. Applicability of Section 42

25. The analysis would be incomplete without taking note of Section 42 of the Act, though reference to Section 42 has



WEB COPY

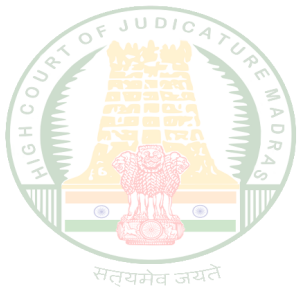


not been made before the High Court or this Court. Section 42 provides that;

“42. Jurisdiction.—*Notwithstanding anything contained elsewhere in this Part or in any other law for the time being in force, where with respect to an arbitration agreement any application under this Part has been made in a Court, that Court alone shall have jurisdiction over the arbitral proceedings and all subsequent applications arising out of that agreement and the arbitral proceedings shall be made in that Court and in no other Court.”*

26. It may be argued that since application under Section 11(6) for appointment is filed before High Court, all successive applications, including the one under Section 29A(4) must be made to such High Court. We need not labour on this issue as a Constitution Bench of this Court in State of Jharkhand v. Hindustan Construction Co., (2018) 2 SCC 602 affirming the decision in Associated Contracts (Supra) has held that, solely because a superior Court appoints the arbitrator, or issues directions or has retained some control over the arbitrator, it cannot be regarded as a 'Court' of first instance for purposes of Section 42. In Associated Contracts (Supra) this Court opined:

“13. It will be noticed that whereas the earlier definition contained in the 1940 Act spoke of any civil court, the definition in the 1996 Act fixes "court" to be the Principal Civil Court of Original Jurisdiction in a district or the High Court in exercise of its ordinary



WEB COPY

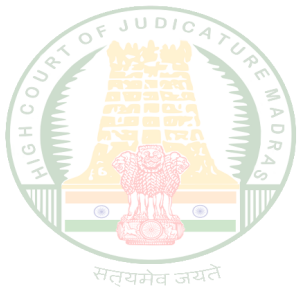


original civil jurisdiction. Section 2(1)(e) further goes on to say that a court would not include any civil court of a grade inferior to such Principal Civil Court, or a Small Cause Court.

14. It will be noticed that the definition is an exhaustive one as it uses the expression "means and includes". It is settled law that such definitions are meant to be exhaustive in nature—see P. Kasilingam V. P.S.G. College of Technology [1995 Supp (2) 5CC 348].

16. Similar is the position with regard to applications made under Section 11 of the Arbitration Act. In Rodemadan India Ltd. v. International Trade Expo Centre Ltd. [(2006) 11 SCC 651], a Designated Judge of this Hon'ble Court following the seven-Judge Bench in SBP and Co. v. Patel Engg. Ltd. [(2005) 8 SCC 618], held that instead of the court, the power to appoint arbitrators contained in Section 11 is conferred on the Chief Justice or his delegate....

It is obvious that Section 11 applications are not to be moved before the "court" as defined but before the Chief Justice either of the High Court or of the Supreme Court, as the case may be, or their delegates. This is despite the fact that the Chief Justice or his delegate have now to decide judicially and not administratively. Again, Section 42 would not apply to applications made before the Chief Justice or his delegate for the simple reason that the Chief Justice or his delegate is not "court" as defined by Section 2(1)(e). The said view was



WEB COPY



reiterated somewhat differently in Pandey & Co. Builders (P) Ltd. v. State of Bihar [(2007) 1 SCC 467]."

(emphasis supplied)"

5. In view of the categorical conclusion in *Jagdeep Chowgule* that the expression "Court" in Section 29A refers to the Court as defined in Section 2(1) (e) of the A&C Act, an application under Section 29A should be filed before such court. Whether this position is altered because of the earlier order of this Court extending time or on account of the Practice Directions issued by this Court remain to be considered.

6. The earlier order of this Court in A. No.2473 of 2025 was issued on 11.06.2025. This was prior to the judgment of the Supreme Court in *Jagdeep Chowgule*. In that context, this Court exercised jurisdiction by probably taking into account Practice Direction 7.1. In effect, this Court proceeded on the basis that the exercise of jurisdiction under Section 29A, in a matter wherein this Court made the appointment of the arbitrator, tantamounts to the exercise of a continuing jurisdiction by the appointing court.

7. In *Jagdeep Chowgule*, the Supreme Court clarified that Section 42 of the A & C Act is not applicable to the exercise of jurisdiction under Section 11.

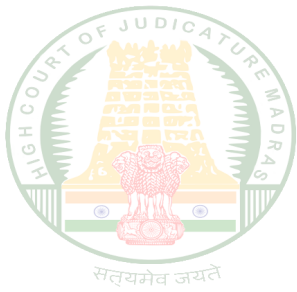


Although reference was made in *Jagdeep Chowgule* to the judgment in *State of Jharkhand v. Hindustan Construction Company Limited*, (2018) 2 SCC 602,

which is a judgment rendered before Section 11 was amended, it should be noticed that Section 11 empowers only the Supreme Court or the High Court, as the case may be, or, any person or institution designated by such court, to appoint an arbitrator. Consequently, the word “Court” does not find place therein. In contrast, the expression “Court” is used in other provisions of the A&C Act such as Sections 14, 27, 29A and 34.

8. Therefore, even after the amendment of Section 11, this provision remains a special provision relating to appointment wherein jurisdiction is conferred on the High Court with regard to domestic arbitrations and on the Supreme Court with regard to international commercial arbitration. Consequently, Section 42 of the A & C Act is not attracted merely because an extension order was issued on the basis that it is a continuing jurisdiction exercised by the appointing court. The Supreme Court has settled this debate by holding that the appointing court becomes *functus officio* upon making the appointment, thereby ruling out the right to grant extension thereafter.

9. Turning to Practice Direction 7.1, the said Practice Direction was issued on 17.03.2021 pursuant to sub-rule (v) of Rule 12 of the Arbitration Rules. Practice Direction 7.1 is as under:



WEB COPY

“7. Extension of time for making the award, Section 29A(5) of the Act:

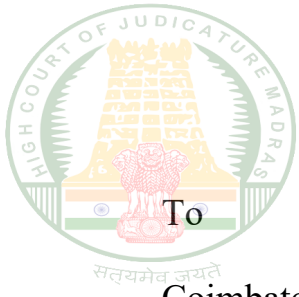
7.1 It is appropriate that the application for extension should be made before the Court, if any, appointing the arbitrator or any of them.”

These Practice Directions were issued by the Chief Justice pursuant to powers conferred under the Arbitration Rules. The Arbitration Rules constitute subordinate legislation framed under Section 82 of the A & C Act. Being subordinate legislation, neither the Rules nor the Practice Directions can override the parent statute. Therefore, in the light of the judgment of the Supreme Court in *Jagdeep Chowgule* interpreting Section 29A, the appropriate course of action for the applicant is to approach the Commercial Court in Coimbatore for an extension. Practice Direction 7.1 will not stand in the way and, in fact, an amendment of such Practice Direction is warranted so as to bring it in line with the law declared by the Supreme Court.

10. This application is disposed of with the above observations. There will be no order as to costs.

10-03-2026

Index : Yes/No
Internet: Yes/No
Neutral Citation : Yes/No
kj

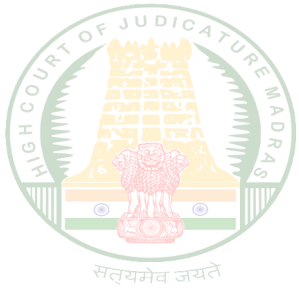


A. No. 1132 of 2



To

Coimbatore City Municipal Corporation
Big Bazar Street,
Coimbatore - 641 001,
Rep. by its Commissioner.



WEB COPY

A. No. 1132 of 2



SENTHILKUMAR RAMAMOORTHY, J.

KJ

A No. 1132 of 2026

10-03-2026