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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

**NOTICE OF MOTION (L) NO.122 OF 2016
IN
ARBITRATION PETITION NO. 990 OF 2012**

Ashok Leyland Finance Ltd.	...Applicant
in the matter between	
M/s Ambarwadikar & Co.	...Petitioner
VS	
Ashok Leyland Finance Ltd. & Anr.	...Respondents.

**WITH
NOTICE OF MOTION (L) NO.124 OF 2016
IN
ARBITRATION PETITION NO. 991 OF 2012**

Ashok Leyland Finance Ltd.	...Applicant
in the matter between	
M/s Ambarwadikar & Co.	...Plaintiff
VS	
Ashok Leyland Finance Ltd. & Anr.	...Defendants

.....
Mr Anoop Patil for Applicant (Orig.Respondent No.1)
Mr Sachin Punde for the Respondent (Original Petitioner.)
.....

CORAM : S.C. GUPTE, J.

MARCH 03, 2016

P.C. :

These Notices of Motion are taken out in a disposed of Arbitration Petition for extension of time to make an award. The Arbitration Petition had challenged an award by a Sole Arbitrator under Section 34 of the Arbitration and Conciliation Act, 1996 ("the Act"). By a consent order passed on the Arbitration Petition, the impugned award was set aside and an agreement of the Respondent to appoint a new arbitrator within four weeks from the date of the order was recorded. The order further provided that the new arbitrator would decide the

matter afresh in accordance with law and that the Arbitrator was to make an endeavour to dispose of the arbitral proceedings within four weeks from the date of the first meeting. The order also recorded the Petitioner's agreement to file a written statement along with requisite documents within four weeks of the date of communication of the name of the new arbitrator by Respondent No.1. In accordance with this order, Respondent No.1 to the original arbitration petition communicated the name of the new arbitrator to the original petitioner. It is the grievance of Respondent No.1, who is the applicant in the Notice of Motion, that the original Petitioner has failed to file any written statement along with requisite documents before the new arbitrator despite four weeks having passed since the date of communication of the name of the new arbitrator by Respondent No.1. It is submitted that instead of filing a written statement, the original petitioner moved an application before the new arbitrator urging grounds of challenge under Sections 12 and 13 of the Act and that as a result, the proceedings could not be completed within a period of four months from the date of the first meeting.

2 Learned counsel for the original petitioner objects to this application. He submits that the application for extension of time cannot be made in a disposed of petition filed by it. He also submits that the time having been provided for by consent of parties, this Court cannot extend originally stipulated time for concluding the reference except with consent of both parties. It is also submitted that the claim statement has not been served by Respondent No.1 on the original petitioner as of date and it was for this reason that the written statement could not be filed by it.

3 In the first place, it must be made clear that the consent order dated 27 February 2015 does not lay down any absolute time limit for concluding the reference. What it provides for is a direction to the arbitrator to make an endeavour to dispose of the arbitral proceedings within four months from the date of the meetings. In any event, even if it was time fixed by this Court on the basis of an agreement between parties, the Court would still be within its rights to extend the time. Since, however, I am of the considered view that there is no absolute time fixed in the matter, there is no question of extending the time. The

arbitrator may dispose of the petition as expeditiously as possible. If it is the case of the original Petitioner that the mandate of the arbitrator has already terminated by reason of his refusal to act without undue delay, it is for him to first apply to the arbitrator and seek an order and in the event there remains any controversy concerning such termination, apply to the court to decide on the termination of the mandate. On the application of extension of time filed by the original Respondent No.1, there is no question of this court entertaining any plea of termination of mandate at the instance of the original Petitioner.

4 In that view of the matter, there is no further clarification necessary except that the arbitral tribunal may dispose of the reference as expeditiously as possible.

(S.C.GUPTE J.)