

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
NOTICE OF MOTION NO. 950 OF 2016
IN
ARBITRATION PETITION (L)NO. 406 OF 2016

Union of India

..... Petitioner

VERSUS

M/s.Shah Construction

..... Respondent

Mr.T.J.Pandian for the Petitioner.

Mr.Mihir Raje for the Respondent.

CORAM : R.D. DHANUKA, J.

DATE : 25th NOVEMBER, 2016

P.C.

By this notice of motion, the applicant seeks condonation of delay of 23 days in filing arbitration petition.

2. It is the case of the applicant that the copy of the signed award was forwarded to the office of the Deputy Chief Engineer (Construction), Central Railway, Pune which was the contesting party before the arbitral tribunal on 23rd November, 2015. Upon receipt of the copy of the award to the office of the Deputy Chief Engineer (Construction), Central Railway, Pune, the validity of the award was examined in his office and views were submitted to the Head Quarter Office for further instructions on 2nd December, 2015. Various queries were raised by the office of the petitioner and after examining the merits of the award, through its legal cell, it was decided to challenge the award. The papers were thereafter sent to the advocate on 23rd February, 2016. In this process there was delay of 23 days in filing arbitration petition.

3. Notice of motion is opposed by the respondent on the ground that the delay is not properly explained.

4. I have heard the learned counsel for the parties and I have perused the affidavit in support of the notice of motion and also the affidavit in reply. The applicant has explained the steps taken by the applicant showing stages involved before filing the arbitration petition. In my view the delay for 23 days in filing the arbitration petition is satisfactorily explained. I am not inclined to accept the submission of the learned counsel for the respondent that the delay is not properly explained in the affidavit in support of the notice of motion. I, therefore, pass the following order :-

(a) Notice of motion is made absolute in terms of prayer clause (a). Delay of 23 days in filing arbitration petition is condoned.

(b) No order as to costs.

5. Place the arbitration petition on board for admission on **16th December, 2016** subject to numbering.

6. Affidavit in reply if any, shall be filed in advance and a copy thereof shall be served upon the applicant's advocate simultaneously.

(R.D.DHANUKA, J.)