

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

**NOTICE OF MOTION NO.927 OF 2017
IN
ARBITRATION PETITION NO.1239 OF 2015**

Siemens Financial Services Private Ltd.)....Applicant

IN THE MATTER BETWEEN

Siemens Financial Services Private Ltd.)....Petitioner
V/s.

Kudos Chemic Ltd. and Ors.)....Respondents

Mr.Shavez Mukri i/by India Law for the applicant/petitioner.
None for respondents.

**CORAM : K.R.SHRIRAM,J
DATE : 22.11.2017**

P.C.:-

1 This application is to restore the ad-interim order dated 16.9.2015 and continue the same.

2 On 16.9.2015, this court was pleased to grant ad-interim relief and petitioner was directed to take steps for appointment of arbitrator if not already appointed. Paragraph-6 of the order reads as under :-

“If the petitioner does not take steps for appointment of the arbitrator within four weeks from today, if not already appointed, interim order passed today to stand vacated without further reference to the Court.”

3 Section 9(2) of the Arbitration and Conciliation Act 1996 provides as under :-

“(2) Where, before the commencement of the arbitral proceedings, a Court passes an order for any interim measure of protection under sub-section (1), the arbitral proceedings shall be commenced within a period of ninety days from the date of such order or within such further time as the Court may determine”

4 Though the amendment came into effect on 23.10.2015, still the petitioner was granted a reasonable time to commence arbitration proceedings and court while passing an order dated 16.9.2015 has felt that reasonable time was four weeks. Petitioner, as it seems, has filed an application under Section 11 of the Act but paragraph-8 of the affidavit in support does not even mention what is the application number and the date on which it was lodged. Mr.Mukri appearing for petitioner states that it was lodged on 29.6.2017.

5 The only explanation given in the incomplete paragraph-8 of the affidavit in support is “ I say that inadvertently the said condition to appoint an Arbitrator could not be complied within the specified time”. This explanation is neither here nor there and

petitioner cannot take the court for granted. It was the duty of petitioner to explain each days' delay and this kind of general statement cannot be accepted. It should also be noted that this Notice of Motion itself has been lodged only on 25.5.2017 when 4 weeks period granted on 16.9.2015 expired on 14.10.2015.

6 In the circumstances, the prayer as sought in this Notice of Motion cannot be granted.

Notice of Motion dismissed.

(K.R.SHRIRAM,J)