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

ARBITRATION PETITION NO.632 OF 2017

Essar Oil Ltd. ...Petitioner

V/s.

Rajesh Chauhan,  
Prop.of Maa Rukmani Devi Filling Station ...Respondent

Mrs.Tanmayi Rajadhyaksha with Mr.Sunil Gangan and Mr.Jayesh  
Mistry i/b RMG Law Associates for the Petitioner.

Mr.Pandit Kasar for the Respondent.

**CORAM : R.D. DHANUKA, J.**

**DATE : 17TH NOVEMBER, 2017.**

**P.C. :-**

1. After the arguments are concluded, learned counsel for the respondent tenders affidavit in reply. I have therefore, not dealt with the allegations made in the affidavit in reply.

2. By this petition filed under section 29-A of the Arbitration & Conciliation Act, 1996, by the petitioner (original claimant), the petitioner seeks extension of time of one year for making the arbitral award by the learned arbitrator Mr.Cyrus Bharucha, a counsel of this Court, who was appointed by consent of parties from the date of the learned arbitrator entering upon reference on 20<sup>th</sup> June, 2016. Since the respondent did not give any consent for extension of time under

section 29-A(3) of the Arbitration & Conciliation Act, 1996, the petitioner filed this application under section 29-A(4) of the Arbitration & Conciliation Act, 1996.

3. Learned counsel for the petitioner invited my attention to various annexures annexed to the petition, including the orders passed by the learned arbitrator making various observations about the conduct of the respondent. She submits that the respondent had been filing number of applications one after another before the learned arbitrator and was also absent except on one occasion. Learned arbitrator thus was required to grant adjournment from time to time with a view to give opportunity to the respondent to remain present before the learned arbitrator.

4. The next submission of the learned counsel for the petitioner is that the respondent has been making very wild allegations against the learned arbitrator and has also threatened the learned arbitrator of criminal proceedings and that he would file FIR against the learned arbitrator. She submits that since the respondent was fully responsible for not concluding the arbitral proceedings before the learned arbitrator within a period of 12 months from the date of the learned arbitrator entering upon the reference, time be extended by one year. She submits that the matter is at the evidence stage. It is further submitted that after expiry of 12 months period

from the date of the learned arbitrator entering into a reference, the respondent had applied for extension of time to file rejoinder to the affidavit in reply filed by the petitioner to the application filed by the respondent under section 16 of the Arbitration & Conciliation Act, 1996 before the learned arbitrator and thus the respondent has submitted to the jurisdiction of the learned arbitrator even after expiry period of 12 months.

5. Learned counsel for the petitioner invited my attention to a letter dated 25<sup>th</sup> July, 2017 annexed at page 171 of the arbitration petition, which is addressed by the respondent to the partner of RMG Law Associates, which firm represents the petitioner before the learned arbitrator and has threatened him of dire consequences if he continues to represent the petitioner and if the respondent is continued to be harassed by the learned advocate.

6. Pursuant to the order passed by this Court, the respondent is present in Court. This Court has explained the consequences of the threats given by the respondent to the learned arbitrator as well as to the learned advocate, who represents the plaintiffs before the learned arbitrator in Hindi. Upon understanding the consequences of his such behavior before the learned arbitrator, including his threat to file contempt proceedings and lodge FIR against the learned arbitrator, and threats to the learned advocate of the petitioner, the

respondent has apologized for his misbehavior with the learned arbitrator and the threats given to the learned arbitrator of filing contempt proceedings as well as FIR and threats to the learned advocate, and unconditionally withdraws all the allegations made by him against the learned arbitrator the threats given to him and the learned advocate for the petitioner. He undertakes not to make any such allegations or would not give any threats to the learned arbitrator and to the learned advocate for the petitioner during the conduct of the arbitral proceedings or otherwise. The statement made by the respondent, who is present in Court is accepted as an undertaking to this Court.

7. In view of the undertaking rendered by the respondent, I do not propose to take any action against him at this stage. If the respondent continues such behavior with the learned arbitrator and with the learned advocate appearing for the petitioner, and continues to give such threats, the petitioner would be at liberty to bring those facts to the notice of this Court to initiate appropriate action against the respondent for such threats given to the learned arbitrator and the learned advocate and for such misbehavior.

8. Insofar as extension of time is concerned, learned counsel for the respondent submits that the respondent was not responsible for the delay in concluding the arbitral proceedings by the learned

arbitrator within a period of 12 months from the date of the learned arbitrator entering upon the reference. However, a perusal of the record clearly indicates that the respondent was making applications after applications without any basis and more particularly under section 16 of the Arbitration & Conciliation Act, 1996 on one or the other grounds. The respondent was absent before the learned arbitrator except on one occasion. Learned arbitrator was still kind enough to give him opportunities to represent his case before him and did not proceed with the matter *ex-parte*. There is thus no merit in the submissions made by the learned counsel for the respondent that his client was not responsible for the delay in concluding the arbitral proceedings by the learned arbitrator.

9. The matter is already at the evidence stage. Learned arbitrator shall not grant unnecessary adjournment to any of the parties. Both the parties are directed to co-operate with each other and also with the learned arbitrator in concluding the arbitral proceedings. The time to make the arbitral award is extended from the date of expiry of 12 months period of the learned arbitrator entering upon the reference till 30<sup>th</sup> November, 2018.

10. Learned counsel for the respondent on instructions states that his client withdraws all the allegations and threats given to the learned arbitrator and the learned advocate representing the

petitioner and undertakes not to give such threats to them in the arbitration proceedings or otherwise. The undertaking rendered by the respondent is accepted. If it is found by this Court that the respondent has committed breach of any such understanding tendered before this Court, appropriate action under the Contempt of Courts Act, 1972 against the respondent would be initiated. The respondent admits that he is studied upto 10<sup>th</sup> standard.

11. The arbitration petition is allowed in aforesaid terms. No order as to costs.

***(R.D. DHANUKA, J.)***