

Mr. Dhananjay Joshi I/b. Mr. Raju M. Jain for Petitioners.
Mr. Vhyom Shah a/w. Mr. Aziz Khan i/b. Divya Shah for Respondent.

CORAM : R. G. KETKAR, J.
DATE : DECEMBER 3, 2018

Heard Mr. Joshi, learned Counsel for the petitioners and Mr. Shah, learned Counsel for the respondent at length.

3. Mr. Joshi submitted that the period of 12 months commenced from 30.03.2017. He submitted that order dated 27.03.2017 passed by this Court (Coram: G. S. Patel, J.) in Commercial Arbitration Petition No.136 of 2017 recorded that the Sole Arbitrator was appointed by consent of the parties. In pursuance thereof, parties were directed to obtain the statement of disclosure of the Sole Arbitrator. The matter was thereafter heard on 30.03.2017, when this Court recorded that petitioner had obtained the consent of the Sole Arbitrator. The statement of disclosure of the Sole Arbitrator was taken on record and marked 'X' for identification. It is in this context, Mr. Joshi submitted that the Sole

Arbitrator has entered upon the reference on 30.03.2017. In terms of Section 29-A of the Arbitration and Reconciliation Act, 1996 (for short 'Act'), as the Sole Arbitrator did not make award within 12 months from the date of entering upon the reference and within further 6 months, by consent of the parties, in all 18 months, the mandate of arbitrator stood terminated.

4. On the other hand, Mr. Shah submitted that the learned Arbitrator rightly held that notice in writing about appointment of the Sole Arbitrator was received by him on 02.06.2017 and the period of one year would expire on 02.06.2018.

5. I need not go into this controversy as it is not in dispute that respondent has moved Commercial Arbitration (L) No.1507 of 2018 in this Court under Section 29-A(5) of the Act.

6. In view thereof, Mr. Joshi seeks permission to withdraw this Petition. He submits that all contentions raised by the petitioner in this Petition may be kept open. Mr. Shah submits that in that event all contentions of the respondent in the present Petition may be kept open as according to the respondent, the learned Arbitrator has entered upon the reference only on 02.06.2017.

7. In view thereof, on the motion made by Mr. Joshi, Petition is allowed to be withdrawn and is disposed of as such. It is made clear that I have not examined merits of the case. All contentions of the parties on merits are expressly kept open. Order accordingly.

(R. G. KETKAR, J.)