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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
COMMERCIAL ARBITRATION PETITION NO. 572 OF 2017
WITH
ARBITRATION PETITION NO. 779 OF 2017

Siemens Financial Services Pvt. Ltd.

... Petitioner

vs.

Vasan Healthcare Pvt. Ltd. & Anr.

... Respondents

Ms. Shilpa Upadhyay a/w. Mr. Rahul Kumar i/b. India Law for the Petitioner.

Ms. Khooshnum Daviervalva a/w. Yazdi P. Jijina i/b. Mulla & Mulla for the Respondents.

CORAM : A.K. MENON, J.

DATE : 30th JULY, 2018

P. C.

1. By these petitions under section 29A of the Arbitration and Conciliation Act, 1996 the petitioner seeks extension of time to complete arbitration proceedings in two similar references. The learned counsel for the petitioner states that although the petitions include a prayer for substitution of the sole arbitrator, the said prayer is not being pressed. The period of one year expired on or about 22nd September, 2017.

2. It is case of the petitioner that while the arbitral proceedings were underway, pursuant to proceedings before the NCLT against the respondent, a moratorium came to be declared. As a result the proceeding in the arbitration were halted. On 4th May, 2017, the Madras High Court stayed the order of moratorium as a result of

which the arbitration proceedings were to be revived. In the meantime before the claimants file their affidavit in evidence affidavit, the mandate of the tribunal came to an end in October, 2017. It is in these circumstances that the extension is being sought.

3. On behalf of the respondent Ms. Davierwala states that the respondent does not intend to file any reply to the statement of claim and that they will proceed on the basis of denials, to cross examine the petitioners witness. In terms of Section 29A(2) it was open for the parties to consent and extend the time by a period of 6 months. However, it appears that respondent did not consent to the petitioner's request to consent to extend. It is under these circumstances this petition came to be filed on or about 17th November, 2017.

4. Today the learned counsel for the petitioner states that affidavit of evidence is ready and will be filed before the Tribunal on or before 1st August, 2018. The respondent have submitted to the orders of the court. On behalf of petitioner it is stated that they have examined only one witness who will be available for cross examination on all dates that the tribunal may set out for the purpose of conducting the proceeding. Therefore, in the facts of the case extension can be granted subject to the following :

- (i) Time to complete arbitration proceedings is extended by period four months from today. No adjournment will be sought on behalf of the petitioner on any ground whatsoever. The Arbitrator shall not grant unnecessary adjournments.

(ii) Parties shall appear before the sole arbitrator on 4th August, 2018 or on such other date that the sole arbitrator fixes for the purpose of declaring a schedule of the arbitration proceedings.

(iii) The cross examination of the petitioner's only witness shall be completed within a period of six weeks from the first date fixed by the Tribunal.

(iv) Petitions are disposed of in the above terms.

(A.K. MENON, J.)

Rajeshwari
Ramesh
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