

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

**NOTICE OF MOTION NO.666 OF 2019
IN
COMMERCIAL ARBITRATION PETITION (L) NO.166 OF 2019**

E-Meditek (TPA) Services Ltd. ... Applicant/Petitioner

Versus

India First Life Insurance Company ... Respondent

.....

Mr. Raj Patel a/w Mr. Sayed Mulani I/b Ms. Mulani and Co. for the Applicant/Petitioner.

Ms. Aditi Thakur a/w Ms. Tanya Singh I/b M/s Cyril Amarchand Mangaldas for the Respondent.

.....

CORAM : R.D. DHANUKA, J.

DATE : 3 JULY 2019

P. C. :

. By this application, the Applicant is praying for condonation of delay of 29 days in filing the arbitration petition, which is corrected as 23 days in additional affidavit filed by the Applicant. The arbitration petition was lodged on 14 February 2019.

2 Heard learned Counsel appearing for the parties. Perused the affidavit in support of the notice of motion, additional affidavit filed by the Applicant and also affidavit in reply filed by the Respondent.

3 The reasons for delay rendered in the affidavit in support and in additional affidavit are that the Applicant is a limited company based in Delhi whereas the arbitral proceedings were filed at Mumbai. The record

was voluminous. The Advocate appearing for the Applicant in the arbitration proceedings at Mumbai sent the records to the office of the Applicant at Delhi. The Applicant, thereafter, took some time to discuss the matter with the concerned officials of the company and the Advocates in Delhi and thereafter filed this petition.

4 The Notice of Motion is opposed by the Respondent on the ground that the Applicant has not sufficiently explained the delay of 23 days in filing the arbitration petition. It is submitted by the learned Counsel for the Respondent that the Applicant has not explained delay for the period between 23 October 2018 to 6 December 2018 at all in the affidavit in support of the notice of motion or additional affidavit. It is submitted that delay for the reasons alleged by the Applicant cannot be condoned by this Court.

5 Learned Counsel for the Respondent does not dispute that arbitral proceedings were conducted in Mumbai. Learned Counsel also does not dispute that records and proceedings of the arbitration proceeding were voluminous. In my view, the Applicant has explained delay in their affidavit in support of the notice of motion as well as in the additional affidavit. There is no substance in the defence raised by the Respondent in the affidavit in reply and also in the arguments made across the Bar. Thus, in my view, the Applicant has made out a case for condoning the delay of 23 days in filing the arbitration petition.

6 The Notice of Motion is made absolute on aforesaid terms. There would be no order as to costs.

7 Office objections, if any, to be removed within two weeks from today. After removal of all office objections, the petition be numbered.

8 The Respondent is at liberty to file an affidavit-in-reply to the arbitration petition within four weeks from today and serve a copy thereof upon the Applicant/Petitioner's Advocate simultaneously. Rejoinder, if any, shall be filed within one week thereafter with a copy to be served upon the Respondent's Advocate simultaneously.

9 Both parties are at liberty to file compilation of documents within four weeks from today.

10 Place the Commercial Arbitration Petition for admission after eight weeks.

(R.D. DHANUKA, J.)