

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
NOTICE OF MOTION NO.730 OF 2019
IN
ARBITRATION PETITION (L) NO.173 OF 2018**

Amar Autotech Pvt. Ltd. ... Petitioner
versus
Greenway Grameen Infra Pvt. Ltd. ... Respondent

Mr. Shariq Nachan with Ms. Smit Shah and Mr. Sanket Shah I/by Mr. Smit Shah, for Petitioner.

Ms. Apurva Arhatia with Mr. S. Anwar with Mr. Z. Anwar, for Respondent.

CORAM: S.J. KATHAWALLA, J.

DATE: 26th APRIL, 2019

P.C.:

1. The learned Advocate for the Respondent undertakes to file Vakalatnama within a period of one week from today. The undertaking is accepted.
2. The above Notice of Motion is taken out on 16th February, 2019 seeking condonation of delay of 17 days in filing the above Arbitration Petition under Section 34 of the Arbitration and Conciliation Act, 1996. The learned Advocate for the Petitioner has informed the Court that the said Notice of Motion is sought to be served on ample occasions i.e on 8th March, 2019, 25th March, 2019, 28th March, 2019 and 3rd April, 2019. However, the Respondent have till date not chosen to file any Affidavit in Reply opposing the above Notice of Motion. Even today, the Respondent is not ready with its Affidavit in Reply and therefore, the Notice of Motion is heard on

merits.

3. The impugned Award has been passed on 26th October, 2018 and the same was received by the Petitioner on 1st November, 2018. The Petitioner have explained that after receiving a copy of the impugned award, they have approached their panel Advocate to seek advise whether it was advisable to impugn the Award. It was only after the Advocates were satisfied and advised them to proceed to file the above Arbitration Petition challenging the impugned Award that they took steps to file the Petition. It is further submitted that vital documents and pleadings of the Arbitration Proceeding were with the erstwhile Advocates and after series of conversation and follow up, the erstwhile Advocates, handed over the documents to the present Advocate. It is submitted that the Petitioner have a good case on merits and therefore, delay of 17 days in filing the above Petition be condoned. The learned Advocate for the Petitioner undertakes to pay costs for the inconvenience caused to the Respondent if so suggested by the Court.

4. In view thereof, I am satisfied that the Petitioner have shown sufficient cause for condonation of delay of 17 days in filing the above Arbitration Petition. No doubt, by this delay the Respondent is inconvenienced. In view thereof, delay of 17 days in filing the above Arbitration Petition is condoned subject to payment of costs of Rs.1,00,000/- by the Petitioner to the Respondent within a period of one week from today. The Petitioner through their Advocate undertakes to pay cost of Rs.1,00,000/-

to the Respondent within a period of one week from today. The undertaking is accepted. If the costs is not paid within the stipulated period, the Notice of Motion shall stand dismissed. In the event of the costs being paid, the Arbitration Petition shall be placed for Admission on 3rd May, 2019.

5. The Notice of Motion is accordingly disposed of.

(S.J.KATHAWALLA, J.)