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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
ARBITRATION PETITION NO. 440 OF 2019**

NeoGrowth Credit Private Limited ...Petitioner
Versus
Prestige Home Textiles Co through Partners ...Respondents
Sarika Sree Gowda And Deepak Kumar Sharma

Ms Priya Rita, *i/b Disha Karambar & Associates, for the Petitioner.*
Mr Pankaj D Purway, *for Respondents Nos. 1A & 2.*

CORAM: G.S. PATEL, J
DATED: 4th November 2019

PC:-

1. The Application is for extension of time under Section 29-A of the Arbitration and Conciliation Act 1996. The Application is opposed. There is an Affidavit in Reply dated 9th August 2019. There is no Rejoinder.

2. The learned Sole Arbitrator entered upon the reference on 14th December 2017. The Petitioner filed a statement of claim on 9th January 2018. The Respondents filed an Affidavit in Reply within a reasonable time, by 9th April 2018. The Affidavit in Rejoinder, however, was filed only on 10th December 2018.

3. Today, I am informed by Ms Rita for the Petitioner that the learned sole Arbitrator was unwell and was in fact hospitalised. But that, it appears, was for a few weeks in June and July 2018. It does not in the least explain the delay on the Petitioner's part between April or May 2018 and December 2018 in filing the Affidavit in Rejoinder.

4. That delay by the Petitioner is one aspect of the matter. The other aspect is that even now there is no clarity that I can tell whether the evidence is to be led. Ms Rita says the Petitioners do not propose to lead evidence. Mr Purway for the Respondents says the Respondents believe evidence is necessary; that it is essential they be allowed to cross-examination the Petitioner's witness; and that if the Petitioners do not lead evidence, they will submit that an adverse inference be drawn. If the Petitioners do lead evidence, the Respondents may well need to lead their own in response.

5. In these circumstances, I do not believe there is the remotest possibility of the arbitration being completed within a reasonable time frame. Ms Rita's submission that the Petitioners will proceed on a day to day basis is no great concession; all arbitrations should, ideally. But the submission does a singular disservice to the learned Sole Arbitrator, assuming that he has all the time in the world to spare for the Petitioners.

6. The Petitioners have only themselves to blame for this state of affairs. Even a cursory look at the Arbitration & Conciliation Act, 1996 tells us that the statutory emphasis is now of the timely

completion of arbitrations. The intent is to abjure needless delays, and this must, logically, apply to all concerned. The Tribunal may not unreasonably delay the completion of the arbitration. But neither can parties, and this delay of about seven months by the Petitioners in filing their Affidavit in Rejoinder is wholly without an explanation. It is the more egregious having regard to the statutory prescription for completion of arbitrations, and of which the Petitioners could not have been unaware.

7. The Arbitration Petition is dismissed.

(G. S. PATEL, J.)