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

ARBITRATION PETITION (L) NO.425 OF 2019

Manipal Technologies Ltd. ... Petitioner
V/s.
Mapple Edusoft Pvt. Ltd ... Respondents

Mr. Suraj Almedia, for the Petitioner.
Mr. Dakshesh Vyas i/by Jayesh G. Gawde, for respondent

CORAM : G. S. KULKARNI, J.

DATE : 4th July 2019.

P.C. :

- 1] Heard learned counsel for the parties.
- 2] This petition is filed under Section 29-A of the Arbitration and Conciliation Act, 1996 (for short, "Act"), whereby the petitioner has prayed for extension of mandate to the arbitral tribunal to conclude the proceeding and publish award.
- 3] After hearing the parties on 27th June, 2019, this Court passed the following order:-

"1] In the facts and circumstances of the case, the parties are directed to approach the learned Arbitrator before the adjourned date of hearing. Learned Arbitrator shall consider his position and inform this Court 'whether he is willing to proceed with the arbitration'.

2] Accordingly stand over 4th July, 2019, High on board"

4] In pursuance of the said order, learned counsel for the petitioner has placed on record the communication dated 4th July, 2019 by learned arbitrator whereby he has informed that he is willing to continue as an Arbitrator in the matter.

5] It is a matter of record that there was only one extension granted by this Court (Coram: A.K. Menon, J), by an order dated 17th September, 2018. In the said order, it has been recorded that the cross examination of witness No.1 is in progress, and the schedule of dates of hearing were also recorded to be from September, 2018 to April, 2019 as also an undertaking was given on behalf of respondent's Adv. Mr. Almeida that the cross examination of the said witness would be continued, however, subject to the extension which is being granted. Paragraph 5 of the said order reads thus :-

"5. In the meantime, the learned counsel for the petitioner points out that affidavit-in-reply of Rajni Dahiya has filed on 13th July 2018 to this petition. It is stated that cross examination of claimant's 1st witness will be completed within two to three dates and cross examination of 2nd witness will be completed in a couple of days. In view of the above, cross examination of claimant's 1st witness will be completed by 19th, 20th and 23rd of October, 2018 and cross examination of 2nd witness will be completed on or before 1st and /or 2nd November, 2018. So that recording of claimant's witness should therefore be concluded on those dates".

6] Considering the earlier order passed and the communication of the learned Arbitrator, in the interest of justice the mandate of the arbitral

tribunal to conclude the arbitral proceedings and make an award is further extended by a period of 9 months.

7] In the facts and circumstances, the parties shall co-operate with the arbitral tribunal to smoothly conclude the proceedings. Respondent shall complete the cross examination of claimant's witness so that the arbitral tribunal would be in position to conclude the proceeding within the extended time.

8] In the fact and circumstances of the case, it needs to be observed that there appears to be non adherence to the schedule as agreed and as recorded by this Court (A.K. Menon, J) in the earlier order dated 17th September, 2018. However, it is duty of both parties and more particularly of the respondent to adhere to the schedule so that the proceeding can be concluded.

9] The petition is disposed of in the aforesaid terms. No cost.

[G. S. KULKARNI, J]