

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**ORDINARY ORIGINAL CIVIL JURISDICTION****ARBITRATION PETITION (L) NO.661 OF 2019
WITH
COMPANY PETITION NO.1057 OF 2015**

Red Apple Chandrarat Travel Company
Through Director Parul Jain

....Petitioner

vs

Thomas Cook (India) Ltd.

...Respondent

.....

Ms. Surabhi Agrawal, i/b. Mr. Prashant Nakati, for the Petitioner.

Ms. Alpana Ghone, a/w. Mr. Jainuddin Khan, i/b. Gagrats, for the Respondent.

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CORAM : G.S. KULKARNI, J.

DATED: 24 JUNE 2019

P.C.:

. Mentioned. Not on board. Taken on board as moved on behalf of the petitioner.

2. This is a petition filed by the petitioner under Section 29-A(4) of the Arbitration and Conciliation Act, 1996 (for short “the Act”) whereby the petitioner has prayed for extension of the mandate of the arbitral tribunal which is stated to have expired on 14 June 2019 to complete the arbitral proceedings and publish an award.

3. Perusal of the record indicates that the arbitral tribunal had entered reference in December 2017. It is submitted that there is only one witness, which is to be examined by the claimant and for some reasons, the witness could not travel to India to depose before the arbitral tribunal. It is stated that also substantial time was consumed on marking of documents. It is thus prayed that the mandate of the tribunal be extended for a further period of six months.

4. On the other hand, learned counsel for the respondent submits that the respondent would be examining only two witnesses, who are based in Mumbai and these witnesses would be examined with all expedition. The reason set forth on behalf of the petitioner that the petitioner/claimant's witness was not available or could not travel to depose before the arbitral tribunal is no justification to delay the arbitral proceedings. However, in the interest of justice and as a matter of last chance, the mandate of the tribunal is extended for a further period of six months from 14 June 2019. Ordered accordingly.

5. It is clarified that the petitioner shall take all steps so that the arbitral tribunal can expeditiously conclude the arbitral proceedings. On behalf of the respondent it is expressed that all co-operation would

also be extended in that regard so that the award can be published within the extended period.

6. Needless to observe that any statements/contentions as raised in the memo of the petition on the merits of the dispute are not examined and in fact are not necessary for the adjudication of this application. All contentions of the parties on merits are expressly kept open to be urged before the arbitral tribunal.

7. The petition is disposed of in the above terms.

8. Parties to act on the authenticated copy of the order.

Smita
Gonsalves

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Gonsalves
Date: 2019.06.26 10:53:31
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(G.S. KULKARNI, J.)