

Arun

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL DIVISION
CHAMBER ORDER NO. 1279 OF 2019
IN
COMM ARBITRATION PETITION (L) NO. 1484 OF 2018**

Prakash Chotalal Thakkar And Anr	...Petitioners
<i>Versus</i>	
Ranjhans Reality And Ors	...Respondents

**Mr Abhay Arora, with Mr Rohit Jadhav and Ms Adeeba Khan, i/b
Aditi Bhargava, for the Applicants/Petitioners.
Mr Jigar Kamdar, i/b Prerak Choudhary, for Respondent No.4.**

**CORAM: G.S. PATEL, J.
DATED: 26th November 2019**

PC:-

1. The commercial chamber order is withdrawn to Court. It seeks a restoration of the commercial arbitration petition (L) No. 1484 of 2018.

2. Everything that could possibly be done wrong in this matter has been done wrong. The commercial arbitration petition itself was filed on 21st November 2018. It remained without curing filing defects right up to 13th June 2019. On that date, it was listed before

the Prothonotary and Senior Master. He gave time until 11th June 2019 i.e. a clear four weeks, to cure all defects. The petitioners and their advocates did nothing. That month passed and on the next date, 11th July 2019, the petitioners' advocate filed a praecipe before the Prothonotary and Senior Master seeking even further time. The Prothonotary and Senior Master extended time by another month up to 8th August 2019. Even then nothing was done, and thus the commercial arbitration petition came to be dismissed for non-removal of office objections.

3. This tells us that from the time of its filing in November 2018 for the better of a year, the petitioner was not even able to remove office objections and cure filing defects. As much as eight weeks' time was afforded by the Prothonotary and Senior Master. There is an affidavit dated 26th September 2019 in support of the Chamber Order and even that does not explain this delay.

4. The chamber order No. 1279 of 2019 was filed on 26th September 2019, over a month and half after the petition was dismissed. For this delay too there is no explanation whatsoever.

5. It does not end even at that. The chamber order itself is in completely the wrong format. In other words, not only is the petition defective, so is the chamber order. It is in the form of Judge's Order and not a chamber order at all. How this chamber order came to be accepted and numbered in this fashion is something that I will request the Prothonotary and Senior Master to investigate and to issue the necessary instructions to the staff.

6. Perhaps worst of all is that since the time of the commercial arbitration petition (and I am ignoring for the present everything that passed before) the petitioners have done nothing at all to invoke arbitration. In fact at paragraph 29 of the petition says that the petitioners “intend” to invoke arbitration.

7. The provisions of Section 9 are not meant to be abused in this fashion. The conduct of the petitioners must be such as to demonstrate clearly that there is not only urgency but that there is diligence or at least reasonable diligence on the part of the petitioners. Neither test is satisfied in the present case.

8. The commercial chamber order is dismissed.

9. A copy of this order is to be sent as courtesy to the Prothonotary and Senior Master.

(G. S. PATEL, J)