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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL DIVISION
COMM ARBITRATION PETITION NO. 1437 OF 2019**

Shree Sai Prerana CHS Ltd	...Petitioner
<i>Versus</i>	
Irshad Abdul Hamid Khan	...Respondent

Mr Harinder Toor, *with Swati Sawant & Abhishek Bhosle, i/b SK
Legal, for the Petitioner.*
Ms R Begum Shaikh, *for the Respondent.*

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

PC:-

1. The learned Advocate appearing for the respondent says that she has limited instructions. She has no instructions on merits and is unable to receive these because the respondent has undergone a kidney transplant and is in intensive care in a hospital. She is not even in a position to file her vakalatnama immediately. She has agreed to appear only on oral instructions. She appears only because there was earlier Advocate on record to whom a courtesy copy was forwarded.

2. The petition is under Section 29-A of the Arbitration and Conciliation Act 1996. I have little difficulty in making the order

sought except that I will necessarily have to suspend the arbitral proceedings for some time until the respondent recovers.

3. Having regard to these circumstances, I will make a conditional order exercising my authority under Section 29-A(5) of the Arbitration and Conciliation Act 1996.

4. The brief facts are these. The disputes between the parties were referred to arbitration by an order of 19th April 2018. Mr Amrut Joshi, learned Advocate of this Court was appointed as a sole arbitrator. The pending Section 9 was sent to him for decision under Section 17 of the Arbitration and Conciliation Act 1996.

5. Mr Joshi entered upon the reference to his arbitration on 23rd April 2018. The arbitration then proceeded before him. Pleadings were completed and documents and evidence were filed. The cross-examination of the claimant's only witness was also completed. The arbitral mandate ended on 4th May 2019. Parties agreed to an extension of time before the learned sole arbitrator.

6. Thereafter the parties began exploring a settlement and took time in arbitration to do this. During that intervening period, the arbitration did not proceed at the request of the parties. That settlement did not come through and the parties then said that they would meet to proceed with the arbitration.

7. The last meeting before the arbitrator was on 30th October 2019. The extended arbitral mandate ended on 4th November 2019.

This petition has been filed in these circumstances on 8th November 2019.

8. I see no impediment to making an order under Section 29-A. The only consideration is that I am unable to tell presently how much further time precisely is required because the respondent is unable to instruct his Advocate even as to whether further evidence from the respondent is now necessary or likely to be led.

9. In any case, there is the other factor namely the respondent's ill-health and surgery although Mr Toor says that this was undertaken some time ago. There can be no dispute that it is, however, an extremely serious and delicate surgery. The recovery is likely to take some time.

10. I will accordingly extend the time for the arbitral mandate by a period of one year from 1st February 2020 and will direct the learned sole arbitrator to suspend the arbitral proceedings until the end of January 2020. This intervening grace period is to allow the respondent sufficient time to recuperate.

11. The petition is disposed of in these terms. There will be no order as to costs.

(G. S. PATEL, J)