

Shephali

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL DIVISION
COMM ARBITRATION PETITION (L) NO. 1458 OF 2019**

National Bulk Handling Corporation	...Petitioner
<i>Versus</i>	
M Shamsuneesha Begam	...Respondent

Ms Purvi Joshi, i/b DSK Legal, for the Petitioner.

**CORAM: G.S. PATEL, J.
DATED: 5th December 2019**

PC:-

1. The petition is under Section 29-A for an extension of time to complete the arbitration pending before Mr Arif Doctor, learned advocate of this Court. It has been served. The respondent is absent. Affidavit of service to be filed in a week if not already done.

2. There was an agreement dated 6th February 2015. Disputes arose. On 26th July 2018, this Court appointed Mr Doctor as the sole arbitrator. He was intimated of his appointment on 30th July 2018. He held a preliminary meeting on 23rd August 2018. His arbitral mandate ended in July/August 2019.

3. The respondent's previous advocates sought a discharge in the arbitration saying they had no instructions.

4. The respondent filed a statement of defence including a counter claim to which the petitioner filed a response by November 2018. In December 2018 the respondent filed a Section 16 application. The petitioner filed its reply to the Section 16 application. On 4th March 2019 the respondent unconditionally withdrew that Section 16 application.

5. Draft issues were submitted to the arbitrator but from February or March 2019 the respondent has stopped appearing in the arbitration altogether. The respondent's advocates sought to withdraw from the arbitration, saying they had no instructions.

6. The petitioner has filed its statement of admission and denial before the learned Sole Arbitrator. After giving the respondent adequate opportunity the tribunal marked the documents and closed the cross-examination of the witness that tendered by the petitioner.

7. This is the stage at which the matter rests. Obviously much of the delay, and perhaps all of it, is attributable to the respondent, who filed Section 16 application (which itself delayed matters), only to later withdraw it, after which the respondent has stopped appearing and giving instructions. Sending reminders to the respondents has taken even more time.

8. I will therefore extend time for the arbitration until end of June 2020.

9. No further notice need be given by the learned Sole Arbitrator or by the petitioners' advocates to the respondent. If she chooses to stay away from the arbitration, and also refuses to instruct her advocates, she does so at her own risk. I am making it clear that she will not hereafter be heard or permitted to say that the resultant award is ex parte, should it be against her, or that she was not heard, or that she was not giving a proper opportunity of presenting her case. She was. She has squandered it. On her alone lie the consequences. Should the respondent yet wish to participate in the arbitration, she may do so, but she is put to notice that any further delay will be to her account and should an extension be necessary, she will be put to terms. The learned Sole Arbitrator may also put her to terms, including imposing costs.

(G. S. PATEL, J)