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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
ARBITRATION PETITION (L) NO. 1452 OF 2019
WITH
INTERIM APPLICATION NO. 1 OF 2020**

Bellray Nirmithi Kendra

...Petitioner

Versus

Capital Metal Industries

...Respondent

Ms Alpana Ghone, with Rohan Savant & Praveer Shetty, i/b Res
Legal, for the Petitioner.

Ms Krutika Patil, i/b Amol Joshi, for the Respondent.

CORAM: G.S. PATEL, J.
DATED: 21st January 2020

PC:-

1. The Interim Application is for stay under Section 36 of the Arbitration and Conciliation Act 1996.
2. I cannot grant this relief. The Petition itself is completely time barred.
3. The Award in question was passed on 17th November 2017. The Petitioner admittedly received a copy on 22nd November 2017. The Section 34 Petition was not filed till 28th November 2019.

4. Ms Ghone on instructions contends that for a substantial portion of the intervening period, the Petitioner was bona fide pursuing Writ Petition No. 4523 of 2018 challenging a statutory provision of the Micro Small and Medium Enterprises Development Act 2006. That Writ Petition was disposed of on 17th September 2019 granting liberty to pursue the remedies under Section 34 of the Arbitration and Conciliation Act 1996.

5. That order of the Division Bench in the Writ Petition does not itself save limitation. On any reckoning, even the Writ Petition would not save time. The reason is that the time for filing the Section 34 Petition began on 22nd November 2017. The Petitioner had 90 days plus, with leave of this Court, no more than an additional 30 days in which to file its Section 34 petition. That extended period of 120 days would have ended on 22nd March 2018. The Writ Petition itself was filed only on 3rd April 2018. Therefore, on the date the Writ Petition was filed, the remedy under Section 34 was already time-barred.

6. However much Ms Ghone urges me to have a look at the Award, I do not think that is permissible in law.

7. The Interim Application and the Petition are dismissed. No costs.

(G. S. PATEL, J)