

Arun

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL DIVISION
COMM ARBITRATION PETITION NO. 905 OF 2019**

Meka Dredging Company Private Limited	...Petitioner
<i>Versus</i>	
Marshall Marine International Private Limited	...Respondent

**Mr Vinay Waman Kate, i/b Gunjan Kumar Chaubey, for the
Petitioner.**
Ms Gunjan Mangla, for the Respondent.

CORAM: G.S. PATEL, J.
DATED: 17th January 2020

PC:-

1. The Petition is under Section 29-A of the Arbitration & Conciliation Act 1996. By an order dated 2nd September 2016, this Court appointed an Advocate of this Court as the sole Arbitrator to decide the disputes and differences between the parties arising from agreement dated 29th March 2013. That arbitral mandate ended on 2nd September 2017. The parties consented for an initial six months' extension, which took the time for arbitration to 2nd March 2018. A first petition for an extension was filed in May 2018. It seems that the Petitioner was by then already facing insolvency proceedings before the NCLT, Chennai. There was a moratorium

but ultimately an order of liquidation was passed on 20th September 2018. The earlier petition for extension filed in May 2018 was taken up and an order was made thereon on 3rd December 2018 extending time up to 3rd June 2019.

2. The present Petition is by the Liquidator of the original company. Ms Mangla for the Respondent points out that between 3rd December 2018 and 3rd June 2019, the last extension granted, absolutely nothing has happened, and the arbitration itself is only at the stage of framing issues. On behalf of the Liquidator, an explanation is attempted that there was shortage of funds. But that is more or less self-evident. Indeed, that is precisely the reason that the company is in liquidation. If the company had funds, it would not have been in liquidation to begin with. That can hardly be an answer. It cannot be that the Liquidator now seeks after this gap of time and well beyond any permissible limit to resume an arbitration.

3. The Petition is dismissed. There will be no order as to costs.

(G. S. PATEL, J)