

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.729 OF 2019
IN
COMMERCIAL APPEAL (L) NO.385 OF 2019
IN
COMMERCIAL ARBITRATION PETITION NO.543 OF 2019
WITH
COMMERCIAL APPEAL (L) NO.385 OF 2019
IN
COMMERCIAL ARBITRATION PETITION NO.543 OF 2019

JSW Steel Limited

..Applicant

IN THE MATTER BETWEEN

JSW Steel Limited

..Appellant

Versus

Kences Container Terminal Limited

(formerly "Vishrutha Logistics Limited")

..Respondent

Mr. Zubin Behramkamdin a/w Ms. Kinjal Patel i/by Converse Law LLP, Advocates for the Applicant/Appellant.

Ms. Lopa Munim a/w Mr. Jayendra Navlani i/by Kusumakar Kaushik, Advocates for the Respondent.

**CORAM : PRADEEP NANDRAJOG, C.J. &
SMT. BHARATI DANGRE, J.
DATE : 20th FEBRUARY, 2020**

P.C.

1] There is a delay of 176 days in preferring the Appeal. Vide the Notice of Motion No.729 of 2019 it is prayed that the delay be condoned.

2] The impugned order is dated 7th January 2019. Appellant's challenge to an Award dated 11th September 2017 has been repelled by the learned Single Judge, notwithstanding the Award recording that the Appellant has established non-delivery of the goods given by the Appellant to the Respondent to be stocked at its stockyard. The learned Arbitrator has held that the Appellant had led no evidence to prove the value of the goods which were entrusted to the Respondent and were not returned.

3] In the Notice of Motion it is pleaded that the counsel for the Appellant informed the Appellant on 7th January 2019 of the impugned order having been pronounced. Certified copy was applied for on 8th January 2019 and was made available by the Registry of this Court to the counsel for the Appellant on 18th January 2019. Around the same time i.e. in last week of January 2019, an internal transfer of the employees took place. Ms. Kanun Rabadia and Ms. Shaila Pandit who were handling the matter were transferred to another department and one Ms. Aditi Mahale was assigned duties which were being performed by Ms. Kanun Rabadia and Ms. Shaila Pandit in February 2019. She took time to take charge of the table assigned to her and in March 2019 she discussed with the counsel whether it would be advisable to prefer an Appeal. The advocates informed that as per them Appeal should be filed. The matter was processed and was placed before the Legal Head. At a meeting held on 26th April 2019 the Legal Head desired a written opinion to be obtained from the counsel who provided the same on 10th May 2019. There was another

internal meeting of the officers held on 7th June 2019. The approval had to be obtained from the Finance Department to sanction money for Appeal to be filed. The Finance Department gave an approval in the last week of June 2019. The lawyers drafted the Appeal and it was finalized and filed on 8th August 2019. Afore-noted facts show that the Appellant was cognizant of its rights and took reasonable steps as could be taken within a hierarchy of officers in a corporate structure.

4] It is not a case of indifference or negligence in prosecuting the matter to decide whether an Appeal should be filed.

5] We are satisfied that sufficient cause has been shown for delay to be condoned and thus we allow the Notice of Motion. We condone 176 days delay in filing the Appeal.

COMMERCIAL APPEAL (L) NO.385 OF 2019

IN

COMMERCIAL ARBITRATION PETITION NO.543 OF 2019

1] The Appeal be registered. Copy of the Appeal has been supplied to learned counsel for the Respondent.

2] List the Appeal for preliminary hearing after six weeks.

SMT. BHARATI DANGRE, J

CHIEF JUSTICE