

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CIVIL APPLICATION (O) NO. 57/2020

IN

M.C.A. NO. 276/2018

Anupam Rai Constructions

..VS..

M/s. Spacewood Office Solutions Pvt. Ltd.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri S.C. Mehadia, Advocate for the applicant
Shri C.S. Samudra, Adv a/b Shri A. Sudame, Adv for the respondent

CORAM : N.B. SURYAWANSHI, J.

ORDER RESERVED ON : 05/02/2020

ORDER PRONOUNCED ON : 14/02/2020

1] This application is filed seeking extension of time for completion of the arbitration proceedings. It is stated in the application that the applicant has examined his sole witness who was cross-examined by the respondent and presently examination of four witnesses of the respondent is going on and though the parties are co-operating with each other, the arbitration proceedings could not be completed within a period of one year. Hence, prayer for extension of time to complete the arbitration proceedings is made.

2] Heard learned advocates for the applicant and respondent.

3] Learned advocate for the respondent vehemently opposed the application on the ground that this application needs to be filed before the Principal District Judge as the "Court" is defined under Section 2 (1) (e) of the

Arbitration and Conciliation Act, 1996 (for short "the said Act"). He contends that though arbitrator was appointed by this Court, still in view of Section 2 (1) (e) of the said Act, the application for extension needs to be filed before the Principal District Judge and not before the High Court. By referring to Section 42 of the said Act, he contends that though Section 42 of the said Act refers to the Court and provides that where with respect to an arbitration agreement any application under this Part has been made in a Court, that Court alone shall have jurisdiction over the arbitral proceedings and all subsequent applications arising out of that agreement and the arbitral proceedings shall be made in that Court and in no other Court, the Court referred in Section 42 of the said Act is the Court defined under Section 2 (1) (e) and hence the application for extension is mis-conceived and it ought to have been filed before the District Court.

4] Learned advocate for the applicant, on the other hand, by referring to Section 42 of the said Act contends that it is the only Court which appointed the arbitrator will alone have the power to grant extension of time to complete the arbitration process. It is urged that infact Section 42 of the said Act is clear which states that the Court which appointed the arbitrator alone shall have the jurisdiction over the arbitral proceedings and all subsequent applications arising out of that agreement and the arbitral proceedings shall be made in that Court and in no other Court.

5] After considering the rival submissions of learned advocates for the respective parties and on going through Section 42 of the said Act, it is crystal clear that the

Court which appointed the arbitrator alone has the power to grant extension of time to complete the arbitration process. Since this Court has appointed the arbitrator, the application seeking extension of time has to be filed in this Court only. I find no merit in the arguments advanced by learned advocate for the respondent. Hence, the application filed by the applicant seeking extension of time to complete the arbitration process is maintained before this Court.

6] Taking into consideration the reasons mentioned in the application, the application deserves to be allowed. Hence, the following order:-

ORDER

(a) The application is **allowed** and time is extended up to 30/09/2020 for completion of the arbitration proceedings.

JUDGE

ANSARI