

AP/294/2021

IN THE HIGH COURT AT CALCUTTA
Ordinary Original Civil Jurisdiction
ORIGINAL SIDE
(Commercial Division)

PEERLESS FINANCIAL SERVICES LIMITED
Versus
SHRENUJ INVESTMENTS AND FINANCE LIMITED

BEFORE:

The Hon'ble JUSTICE MOUSHUMI BHATTACHARYA

Date : 2nd August, 2021.

[Via Video Conference]

Appearance:

Mr. Parikshit Basu, Adv.
Mr. Rajnil Mukherjee, Adv.

Mr. Uday Sankar Chattopadhyay, Adv.
Mr. Santanu Maji, Adv.
Ms. Snigdha Saha, Adv.
Mr. Pronoy Basak, Adv.

The Court : This is an application under Section 29A of The Arbitration and Conciliation Act, 1996 for extension of time for publishing the Award.

According to learned counsel appearing for the petitioner, the claimant in the arbitration, the Arbitrator was appointed by an order in a Section 11 application on 23rd July, 2018 and the Arbitrator entered reference on 8th August, 2018. The first sitting was held on 28th August, 2018. Learned counsel appearing for the petitioner submits that there was a one-year gap in between after which the parties consented to extend the time for a period of six months. Counsel places a minutes of meeting of 22nd February, 2020 by

which the Arbitrator felt that it was necessary for the parties to approach the Court for enlargement of time to make the Award.

Although the respondent is represented, it is submitted by counsel that the Vakalatnama is yet to be filed in Court.

Under Section 29A of the Act, which was brought into force on 23rd October, 2015, the Award is to be published by the Arbitral Tribunal within a period of 12 months from the date of completion of pleadings under Section 23(4) of the Act. According to counsel, the pleadings were completed sometime in 2019.

The facts indicate that there has been an inordinate and unexplained delay in the arbitration which runs counter to the purpose of introduction of Section 29A to the Act. If the first sitting was held on 28th August, 2018, this Court finds absolutely no conceivable reason why the arbitration has not been completed or the Award published till date. The minutes of meeting held on 22nd February, 2020 show that the Arbitrator thought it fit that parties should approach the Court for appropriate orders. An application was made thereafter in February, 2020 which was allowed to be withdrawn by an order passed by a learned Single Judge on 2nd February, 2021. The present application was filed five months thereafter in July, 2021.

The above would show that there is absolutely no sense of urgency on the part of the parties for completing the proceedings which in turn would expedite making of the Award. The pretext of COVID-19 is without basis since the arbitration commenced in August, 2018 long before the pandemic. There are no grounds stated in the petition for explaining the delay in making the

present application. The conduct of the parties is precisely what the statute seeks to prevent.

In view of the above, this is a fit case where costs should be imposed on the parties as is permitted to be done under Section 29A(8) of the Act.

The petitioner shall pay Rs. 10,000/- to the State Legal Services Authority which is to be specifically used for women who have lost their husbands or the sole earning member in their families to the pandemic. The respondent shall pay Rs. 10,000/- to Bharat Sevashram Sangha, Calcutta. Both the payments shall be made within a week from date.

AP/294/2021 is allowed by directing the learned Arbitrator to publish the Award within four weeks from date.

(MOUSHUMI BHATTACHARYA, J.)

Bp.