

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**INTERIM APPLICATION NO.3057 OF 2021
IN
ARBITRATION PETITION (L) NO.28994 OF 2019**

The Commissioner,
Nashik Municipal Corporation
V/S
M/s. MIC Electronics Ltd.

...Applicant/Petitioner

...Respondent

Mr. Vaibhav Patankar i/by M/s. Patankar and Associates for
Petitioner/Applicant.
None for Respondent.

**CORAM : R. I. CHAGLA, J.
DATED : 26th OCTOBER, 2021.**

P.C.

Heard learned counsel for the Petitioner/Applicant.

2. By this Interim Application, the Applicant is seeking setting aside of the order dated 24th February 2020 passed by the learned Registrar (Judicial-II) in the Arbitration Petition (L) No.28994 of 2019 and for restoration of Arbitration Petition (L) No.28994 of 2019 in the file of this Court. It is stated by the Applicant that after the filing of the Arbitration Petition, certain objections were raised by the Registry of this Court regarding the synopsis and seeking typed copies of certain pages of the memo of the Petition. The matter was listed from time-to-time before the

Registrar (Judicial-II) for removal of office objections and on the last date, when the matter was listed on 24th February 2020, the learned Registrar (Judicial-II) passed order that none present and four weeks time is granted to remove office objection, failing which the Arbitration Petition (L) No.28994 of 2019 shall be dismissed.

3. It is further stated by the Applicant that the Applicant's office clerk on 19th March 2020, few days before the nation wide lockdown due to Covid-19, went to concerned department for removal of office objections alongwith the required documents, viz. typed corrected synopsis and other typed pages of the documents as required by the Registry to remove all objections and papers were presented before the Section Officer for necessary Noting that all office objections were removed. However, the Section Officer, asked the Applicant's advocate-on-record's clerk to come later since the Section Officer was busy with some other official work. However, due to the nation wide lockdown and though the objections were removed in the time frame given by the learned Registrar (Judicial-II) vide order dated 24th February 2020, the noting qua the removal of office objections were not put up by the then concerned Sections Officer on the set of papers of this Court and due to the conditional order dated 24th February 2020, the Petition came to be dismissed on account of non-removal of

office objections.

4. The learned counsel for the Applicant has submitted that though all objections have been removed, due to the noting of removal of office objections not put up by the Section Officer before this Court as per the conditional order, the Petition came to be dismissed. This was noticed by the Applicant, only when the Applicant sought circulation of Arbitration Petition for 20th October 2021 vide praecipe dated 11th October 2021 and the Arbitration Petition was listed before this Court on that date. At that time the advocate-on-record of the Applicant noticed that the Petition was dismissed for non-removal of office objections. This was mentioned by praecipe, but in view of the Petition having been dismissed, this Court directed to the Applicant to file the Interim Application.

6. The learned counsel for the Applicant has relied upon the decision of the Supreme Court in Re-Cognizance which is in respect of extension of limitation. The Supreme Court has excluded the period of limitation which would have expired between 15th March 2020 till 2nd October 2021 and notwithstanding the actual balance period of limitation remaining, all persons should have a limitation period of 90 days from 3rd October 2021. In view thereof, the Applicant has stated that there is no delay in filing of the Interim Application.

7. Having considered the submissions of the learned counsel for the Applicant as well as the averments made in the Interim Application and the decision of the Supreme Court in Miscellaneous Application No.665 of 2021 in Suo-Moto Writ Petition (Civil) No.3 of 2020 in Re-Cognizance of extension of limitation, I am satisfied that a case has been made out for restoration of the Arbitration Petition by setting aside the conditional order dated 24th February 2020 passed by the learned Registrar (Judicial-II) in the above Arbitration Petition. Hence, the following order:-

- (i). The order dated 24th February 2020 passed by the Registrar (Judicial-II) in Arbitration Petition (L) No.28994 of 2019 is set aside.
- (ii). Arbitration Petition (L) No.28994 of 2019 is restored to file of this Court.
- (iii). Interim Application is disposed of in the above terms.

(R. I. CHAGLA, J.)