

04.032.2022
KC(AC1)

IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
(COMMERCIAL DIVISION)

F.M.A.T. 54 of 2022
Transafe Services Limited
-versus-
Pegtrofarms Limited and Anr.
With
CAN 1 of 2022

(Through Video Conference)

Mr. Anirban Ray,
Mr. Shayale Mitra,
Ms. Anshumala Bansal.....For the appellant.

Mr. Arindam Guha,
Mr. Suvasish Sengupta.....For the respondent
no. 1.

We admit the appeal. We propose to dispose of it today dispensing with all formalities.

It appears that the appellant was unable to make the application, as provided in our order dated 23rd December, 2021 within the stipulated time, i.e. 10th January, 2022 but made it on 17th January, 2022. By reason of this delay, the learned judge vacated its order made at the time the application was moved, adding the appellant as a party in the application under Section 9 of the Arbitration and Conciliation Act, 1996. In the impugned order the learned judge very fairly stated that he had made a mistake in overlooking this delay.

We have considered the rival contentions of the parties. We condone the delay in filing the application

before the court below. At the same time, we observe that in a Section 9 application where the appellant is not a party to the arbitration agreement, there is no scope of adding it as a party.

Its application in the learned court below will be considered as one made by an intervenor in terms of our order dated 23rd December, 2021.

Written objection to the application made by the appellant for vacating the interim order may be filed by 15th March, 2022 in the learned court below.

Instead of 24th January, 2022 provided in the order dated 23rd December, 2021, 12th April, 2022 would be the relevant date. If by then the learned court below is unable to dispose of the application it can extend the stay only upon imposition of such condition with regard to security to be provided by the appellant for postponement of the sale.

Status quo shall be maintained by the parties till 12th April, 2022 or until further order is passed by the learned court below.

The appeal (F.M.A.T. 54 of 2022) and the connected application (CAN 1 of 2022) are disposed of.

(I.P. MUKERJI, J.)

(ANIRUDDHA ROY, J.)

