

02 21.03.23

Ct. No. 37

Akd

In the High Court at Calcutta
Civil Appellate Jurisdiction
Commercial Division

F.M.A.T. 644 of 2021
CAN 3 of 2023

Sri Ranjit Bhowmick & Ors.
Vs.
Sri Suddhyanath Mukherjee & Anr.

Mr. Arabinda Chatterjee,
Mr. Debrup Bhattacharyya,
Mr. Arkadipta Sengupta.
... for the appellants.
Mr. Ayan Kumar Boral,
Ms. Saswati Sengupta.
... for the respondents.

Re: CAN 3 of 2023

Although the manner in which the prayer is couched initially gives an impression that the instant application has been taken out seeking modification of the order dated 10th February, 2022 passed by another Division Bench, but it appears from the averments made in the instant application that the petitioners intended to have an extension of time to complete the arbitral proceeding.

The development agreement was sought to be tendered before the Arbitrator and a plea was taken that it contains insufficient stamp duty and unless it is impounded under Section 33 of the Stamp Act, the same cannot be received in evidence. In fact, the said document was sent to the adjudicating authority for assessment of stamp duty to be levied upon such instrument and ultimately the assessment has been done and our attention is drawn to the order dated 13th March, 2023 passed in WPA 4744 of 2023 where the petitioners were directed to deposit the said amount and the instrument to be sent to the

Collector/adjudicating authority for doing necessary follow up action.

In pursuit of impounding the document, according to the petitioners the amount has been deposited on 16th March, 2023, but the document has not been impounded as yet, which impedes further progress of the arbitral proceeding.

In view of the above fact, it cannot be said that the parties are at fault, but the delay has occasioned because of the interdict of statutory provision and, therefore, we feel that it is a fit case where the time to conclude the arbitral proceeding should be extended.

We, therefore, extend the time to conclude the arbitral proceeding by three months from date. However, we make it clear that the parties would take all steps required in this regard and shall also co-operate the Arbitral Tribunal in bringing the proceeding to its logical conclusion within the timeline given hereinabove and shall not indulge in seeking unnecessary adjournments.

We request the Arbitral Tribunal to adhere the timeline indicated hereinabove by adjusting the dates depending upon the situation and circumstances prevalent at the relevant time.

The application being CAN 3 of 2023 is thus disposed of.

(Harish Tandon, J.)

(Prasenjit Biswas J.)

