

Prajakta Vartak

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
ARBITRATION PETITION NO.52 OF 2022**

Mr. Chetan Narendra Dhakan	..Petitioner
Vs.	
Amrish H. Soni & Ors.	..Respondents

Mr. Anand Mishra for Petitioner.

**CORAM : G.S. KULKARNI, J.
DATE : JULY 11, 2022.**

P.C.:

1. This is a petition filed under Section 29A of the Arbitration and Conciliation Act, 1996 whereby the petitioner has prayed for extension of mandate of the arbitral tribunal for a period of one year as prayed in terms of prayer clause (a).

2. By an order dated 20 January, 2020, this Court (G. S. Patel, J.) had appointed the learned sole arbitrator to adjudicate the disputes and differences between the parties which have arisen under the Deed of Partnership dated 21 October, 2016. The petitioner and respondent nos.1 & 2 are the partners of the partnership firm M/s.Vinamra Developers(respondent no.3).

3. The present proceedings were listed before this Court on 25 March, 2022 when the Court issuing notice to the respondents passed the following order:-

“ Issue notice to the respondents, returnable on **08 April, 2022**. In addition to the Court notice, learned advocate for the petitioner is permitted to serve the respondents by private service by all permissible modes and place on record an affidavit of service.”

4. Thereafter the proceedings were listed before this Court on 01

July, 2022 when the following order was passed in adjourning the proceedings to 07 July, 2022:-

“1. Let an affidavit of service be placed on record, as it is stated that the respondents are already served. However, the respondents are not represented.

2. Stand over to **07 July, 2022 (H.O.B.).**”

On 07 July, 2022, the proceedings were adjourned for today.

5. Learned counsel for the petitioner has tendered an affidavit of service of Mr. Santosh Kumbhar dated 07 July, 2022 stating that respondent no.1 is served and so far as respondent no.2 is concerned, it is stated that the RPAD envelop sent on the respondent no.2's address has been returned.

6. Learned counsel for the petitioner has drawn the Court's attention to the order dated 20 January, 2020 passed by this Court to contend that the second respondent even in the proceedings of the Section 11 and Section 9 petition was required to be served by publication, despite which the second respondent had continuously remained absent. In paragraph 1 of the said order, the Court has observed as under:-

“1. The 2nd Respondent is now served by publication. I restored the Commercial Arbitration Application to file by my order dated 6th November, 2019. The 2nd Respondent is still absent.”

7. Learned counsel for the petitioner has also drawn the Court's attention to the fact that respondent no.2 is not appearing before the arbitral tribunal. The petitioner contended before the learned arbitral tribunal that respondent no.2 is absconding, which came to be recorded in its order dated 09 September, 2021 (Exhibit “D”, page 27 of the paper-book). It appears that respondent no.2 from the beginning is

not interested to contest the disputes in question.

8. It is informed that pleadings of the parties i.e. of the petitioner and respondent no.1 are complete and the Section 17 application is being heard. In my opinion and more particularly considering the order dated 09 September, 2021 passed by the learned arbitral tribunal, mandate of the arbitral tribunal is required to be extended for a period of 8 months from today, in order to enable the arbitral tribunal to conclude the arbitral proceedings. The parties are directed to co-operate in the early disposal of the arbitral proceedings. In the event the respondents do not co-operate in the early disposal of the proceedings, the learned arbitral tribunal is free to pass appropriate orders.

9. It is expected that the parties are not required to re-approach to this Court for a further extension.

10. All contentions of the parties are expressly kept open.

11. The petition is accordingly allowed by extending the mandate of the arbitral tribunal for a period of 8 months from today. Ordered accordingly.

12. Disposed of. No costs.

[G.S. KULKARNI, J.]