

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

ARBITRATION PETITION NO.319 OF 2017

Mars Petrochem Pvt. Ltd.

.. Petitioner

Vs.

Swiber Offshore Construction Pte. Ltd. and Ors.

.. Respondents

**ALONG WITH
CHAMBER ORDER (LODGING) NO.2713 OF 2022**

Ashwin Shankar (*Advocate for the Petitioner*)

.. Applicant

None for the Petitioner.

Ms. Niyati Merchant, i/by MDP & Partners, for Respondent No.3-ONGC.

Mr. Ashwin Shankar, the Applicant in Chamber Order, is present.

CORAM : A. K. MENON, J.

DATE : 8TH FEBRUARY, 2022.

[THROUGH VIDEO CONFERENCE]

P.C. :

1. This is a petition filed under Section 9 of the Arbitration and Conciliation Act, 1996, seeking reliefs pending resolution of disputes in arbitration. The petition was filed on 18th October 2016. The record indicates that the petition has never moved for urgent reliefs. It came up on board on 23rd September 2019, when none appeared for the petitioner. It was thereafter listed for dismissal on 24th September 2019. On that day, it was adjourned to 25th September 2019 since Mr. Ashwin Shankar appeared for the petitioner.

2. On 25th September 2019, although Mr. Shankar was appearing for the

petitioner, the order does not indicate that any reliefs were sought. It was simplicitor adjourned to 4th November 2019. On 4th November 2019, this petition was listed along with two other petitions, filed against the same respondent-company, being Commercial Arbitration Petition Nos.941 of 2018 and 942 of 2018, when the petitioner in the above petition was not represented. The court recorded that since Swiber Offshore is a Singapore based company in liquidation, both sides had sought accommodation and the matter came to be adjourned. Thereafter, the matter remained unattended. There is no record of service having been effected at any stage.

3. On 3rd January 2022, when this court took up this petition, none appeared for the petitioner. The petition was adjourned to 10th January 2022. Once again, the petitioner and the Advocates were absent. Thereafter, the petition was listed on 24th January 2022. Yet again, the petitioner was not represented. On 24th January 2022, respondent no.3 was requested to inform the petitioner in this petition and two other petitions listed along with the above petition, viz. Arbitration Petition Nos.322 of 2017 and 323 of 2017, that these petitions will be listed for dismissal on 7th February 2022. The board of 7th February 2022 has been directed to be listed today by a common order on account of a holiday being declared on 7th February 2022.

4. Today, Ms. Merchant appearing on behalf of respondent no.3 submits that , as directed on 10th January 2022, notices were served in the above petitions upon the Advocates for the petitioners and the petitioners. She has

submitted that the respondents have been duly served, a fact that is confirmed by the courier's acknowledgment slips received by Advocates for respondent no.3.

5. Mr. Shankar appearing on behalf of the petitioner today submits that he has been informed of the petition being listed for dismissal and that he has no instructions whatsoever. In fact, he has filed application for discharge, which is also listed today being Chamber Order (Lodging) No.2713 of 2022. The Chamber Order seeks discharge for the reasons set out therein. Mr. Shankar states that he has not been receiving any instructions from the applicant-petitioner.

6. The petitioner is absent on call. It appears that the petitioner is not interested in prosecuting this petition. Accordingly, I pass the following order :-

- (i) Chamber Order is allowed. Mr. Shankar, Advocate representing the petitioner, is discharged as Advocate in this petition.
- (ii) Chamber Order is disposed in the above terms.
- (iii) Arbitration Petition is dismissed for non-prosecution.

(A.K. MENON, J.)