



Application No.3744 of 2022

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M.SUNDAR, J.,

Captioned application has been filed in this Court on 29.04.2022 under Section 29A(5) of 'The Arbitration and Conciliation Act, 1996 (Act No.26 of 1996)' [hereinafter referred to as 'A and C Act' for the sake of convenience, clarity and brevity] with a prayer for extension of time for making an award by 'Arbitral Tribunal' ['AT'].

2. Mr.Ramkishore Karanam, learned counsel on record for applicant and Mr.M.Aravind Subramaniam, learned counsel for lone respondent are before this Court.

3. In the light of the language in which sub-section (5) of Section 29A of A and C Act is couched, captioned application shall be treated as one under sub-section (5) read with sub-sections (4) and (1) of Section 29A of A and C Act.

4. Be that as it may, a former Hon'ble Judge of Supreme Court of



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India was appointed as a sole Arbitrator by a Hon'ble single Judge of this Court in and by order dated 17.09.2018 made in O.P.No.632 of 2018. To be noted, O.P.No.632 of 2018 is a petition under Section 11 of A and C Act.

5. This Court is informed that Registry is insisting that the extension of time application under Section 29A of A and C Act should be filed as an application in Section 11 OP. This is plainly incorrect. There are multiple reasons. However, important reasons are as follows:

(a) AT should have been constituted even absent
Section 11 OP;

(b) Section 11 OP gets disposed of on appointment
/ constitution of AT;

(c) A scope of Section 11 petition is very different
and a legal drill under Section 11 of A and C Act should
perambulate within the statutory perimeter sketched by
sub-section (6A) thereat;

6. The above observation means that applications for extension of



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time for AT for making an award under Section 29A of A and C Act shall henceforth be stand alone applications.

7. Be that as it may, reverting to the case on hand, learned counsel for applicant submitted that arbitrable proceedings commenced prior to 30.08.2019 and therefore, sub-section (1) of Section 29A of A and C Act as it stood prior to Amending Act No.33 of 2019 would apply. This means that the reckoning date is the date on which AT is deemed to have entered upon reference. In this regard learned counsel submits without any dispute or disagreement that this reckoning date is 22.10.2018.

8. Learned counsel for applicant continuing in this direction submitted that the award should have been made by AT within 12 months from the date of entering upon reference i.e., on or before 21.10.2019. This did not happen. However, the parties before Hon'ble AT resorted to sub-section (3) of Section 29A of A and C Act and by consent extended 12 months period by a further period of 6 months i.e., upto 21.04.2020. Before this extended 6 months period elapsed i.e., before 21.04.2020



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'Coronavirus pandemic and consequent lock down' (collectively 'Covid 19' for clarity and brevity) which none could portend or presage intervened is learned counsel's say. This Covid-19 led to a series of orders that were made by Hon'ble Supreme Court in *Suo Motu Writ Petition (C) No.3 of 2020* extending various periods of limitations across the Board. One such order i.e., order dated 10.01.2022 was made in *Miscellaneous Application No.21 of 2022* in *Miscellaneous Application No.665 of 2021* in *Suo Motu Writ Petition (C) No.3 of 2020*. Relevant sub-paragraphs are sub-paragraph Nos.(III) and (IV) of paragraph No.5 which read as follows:

'III. In cases where the limitation would have expired during the period between 15.03.2020 till 28.02.2022, notwithstanding the actual balance period of limitation remaining, all persons shall have a limitation period of 90 days from 01.03.2022. In the event the actual balance period of limitation remaining, with effect from 01.03.2022 is greater than 90 days, that longer period shall apply.

IV. It is further clarified that the period from 15.03.2020 till 28.02.2022 shall also stand excluded in computing the periods prescribed under Sections 23(4) and 29A of the Arbitration and Conciliation At, 1996, Section 12A of the Commercial Courts act, 2015 and provisions (b) and (c)



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of Section 138 of the Negotiable Instruments Act, 1881 and any other laws, which prescribe period (s) of limitation for instituting proceedings, outer limits (within which the Court or tribunal can condone delay) and termination of proceedings.'

9. Therefore, for the period from 15.03.2020 to 28.02.2022 and further grace period upto 29.05.2022 (all three dates inclusive) the period of limitation vide sub-sections (1) and (3) of Section 29A of A and C Act stood excluded is learned counsel's say. Learned counsel for respondent does not dispute this position. However, there is no difficulty in accepting this submission.

10. In the light of the narrative thus far, the mandate of AT snapped / got terminated by operation of sub-section (4) of Section 29A of A and C Act on 29.05.2022. It is in this backdrop, captioned application has been filed with a prayer for extension of time. The reasons for seeking extension of time are twofold. They are : (a) Covid-19 situation and (b) Hon'ble Arbitrator not being in good health for some time. It is submitted that both these reasons were beyond the control of both parties



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and all concerned including the Hon'ble Arbitrator. Therefore, the prayer for extension of time is justified is the common say of the learned counsel on both sides. As there is no disputation or disagreement between both parties and as the submissions are acceptable, the prayer is answered in the affirmative i.e., acceded to. This means that the mandate of Hon'ble Arbitrator will stand resuscitated / revived on and from 29.05.2022 for a period of 9 months i.e., upto 01.03.2023. Hon'ble AT shall make an award on or before 01.03.2023.

11. Captioned application is disposed of in the aforesaid manner.

There shall be no order as to costs.

30.08.2022

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