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AP/473/2023

IN THE HIGH COURT AT CALCUTTA
Ordinary Original Civil Jurisdiction
ORIGINAL SIDE

NEER DEVELOPER AND ORS.
VS
ASISH GANGULY AND ORS.

BEFORE:
The Hon'ble JUSTICE MOUSHUMI BHATTACHARYA
Date : 7th August, 2023.

Appearance:
Mr. Ratul Das, Adv.
Mr. Abhidipto Tarafder, Adv.
...for the petitioners

The Court:- The admitted case of the petitioners is that the Arbitrator's mandate terminated on 22nd March, 2023. Section 29-A(1) of the 1996 Act gives the Arbitrator 12 months from the date of completion of pleadings as provided under Section 23(4) to make the Award. In the present case, that time period ended on 22nd March, 2023.

Learned counsel appearing for the petitioners submits that the mandate could not be extended for the additional six months under Section 29-A(3) as the respondents did not participate in the arbitration. The petitioners have hence come with the present application under Section 29-A(4).

The law, as provided under Section 29-A of the 1996 Act, brought into effect from 30th August, 2019, makes it clear that the windows under Sections 29-A(1), (3) and then (4) are to be strictly computed on the basis of an existing

mandate. Once the mandate comes to an end, the parties cannot apply for extension as that would be an anomaly in respect of the sequential steps under Section 29-A of the Act. In any event, the petitioners cannot jump the 29-A(3) stage and come to the Court directly with the Section 29-A(4) since the additional six months window under Section 29-A(3) was not explored and exhausted by the parties. The respondents not participating in the arbitration is not a ground for the petitioners to come to the Court before the mandate ended on 22nd March, 2023 under Section 29-A(3) of the Act.

The defence of the respondents not appearing since January, 2020 cannot be treated as an exception to the time lines under Section 29-A because nothing prevented the petitioners from coming before the Court while the Arbitrator's mandate subsisted which was till 22nd March, 2023. The present application was filed on 14th July, 2023 at least four months after the mandate expired.

AP/473/2023 is, accordingly, dismissed without any order as to costs.

The affidavit-of-service is kept on record.

(MOUSHUMI BHATTACHARYA, J.)