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ORDER SHEET
AP/488/2023
IN THE HIGH COURT AT CALCUTTA
ORDINARY ORIGINAL CIVIL JURISDICTION
ORIGINAL SIDE

EFCALON TIE UP PVT. LTD.
VERSUS
STARTRACK AGENCY PVT. LTD.

BEFORE:

The Hon'ble JUSTICE SHEKHAR B. SARAF

Date: 4th August, 2023.

Appearance:
Mr. Maynak Bose, Adv.
Mr. D. Basu, Adv.
Mr. Rajesh Upadhyay, Adv.
. . .for the petitioner.

Mr. Arindam Banerjee, Adv.
Mr. Zeeshan Haque, Adv.
Mr. Chunky Agarwal, Adv.
Ms. Sanchali Bhowmik, Adv.
. . .for the respondent.

The Court: Heard counsel appearing on behalf of the parties.

This is an application under Section 29A of the Arbitration and Conciliation Act, 1996 seeking extension of time for the arbitration Tribunal to complete the arbitration proceedings. It is to be noted that by an order dated 30th January, 2023 this Court granted an extension to the Arbitrator to complete the arbitration proceedings for a period of six months. Parties submit that arguments are complete in the matter and the arbitration tribunal has reserved the matter for passing award.

Counsel appearing on behalf of the respondent in this matter has submitted that in this particular case the document, which is the arbitration agreement, is an un-stamped document and accordingly is hit by the judgment in N.N. Global Mercantile Pvt. Ltd. versus Indo Unique Flame Ltd. and Ors. reported in 2023 SCC online SC 495. He accordingly submits that as per paragraphs 120-124, the Arbitrator has lost his jurisdiction in the matter to proceed further.

In my view, the voidability of the contract is in the Arbitrator's realm and it is for him to decide whether an arbitration agreement exists or not. It is to be noted that this Arbitration was started in the year 2016 and has been continuing till date and is now presently reserved for passing of the award.

In light of the same, I see no bar in granting a limited extension for passing of the award. Accordingly, this Court allows an extension for a period of two months for the Arbitrator to pass the award.

Needless to mention, the arbitration award shall be subject to the result of the Article 227 application filed by the respondent in C.O. 2334/2023 wherein the respondent has challenged the rejection of the Arbitrator with regard to his jurisdiction.

In light of the above directions, AP 488 of 2023 is disposed of.

(SHEKHAR B. SARAF, J.)