

OCD-3

ORDER SHEET
IN THE HIGH COURT AT CALCUTTA
Ordinary Original Civil Jurisdiction
ORIGINAL SIDE
(Commercial Division)

AP/796/2023

SREI EQUIPMENT FINANCE LTD
VS
SEIRRA INFRAVENTURE PVT LTD

BEFORE:

The Hon'ble JUSTICE MOUSHUMI BHATTACHARYA

Date : 1st December, 2023.

Appearance:

Mr. Swatarup Banerjee, Adv.

Mr. Sariful Haque, Adv.

Mr. Rajib Mullick, Adv.

Mr. Biswaroop Ghosh, Adv.

...for the petitioner

Mr. Rohit Das, Adv.

Ms. Kishwar Rahman, Adv.

Ms. Sristi Roy, Adv.

...for the respondent

The Court:- This application is for extension of the mandate of the learned Arbitrator. Learned counsel appearing for the parties have taken the Court through the relevant Minutes and the recordings made therein by the learned Arbitrator. The Minutes, in specific, are of 20th April, 2022, 15th October, 2023 and 17th October, 2023.

The parties are substantially agreed on the dates. The only niggling fact in the matter is that the petitioner (claimant in the Arbitration) underwent CIRP from October, 2021 – August, 2023. The Minutes record that after the petitioner emerged from the CIRP, the dates were shifted taking advantage of Section 60(6) of The Insolvency and Bankruptcy Code, 2016. The Minutes of 20th April, 2022 records that the rejoinder is to be filed by 7th May, 2022. Counsel appearing for the petitioner clarifies his position to say that the

respondent filed its Defence on 6th May, 2022. The Minutes of 15th October, 2023 record the final dates namely pleadings were completed on 7th May, 2022 and the mandate hence expired on 6th May, 2023 and was extended thereafter under Section 60(6) of the Insolvency and Bankruptcy Code. The mandate hence expired on 7th May, 2023.

These dates were clarified further on 17th October, 2023 noting that even if Section 60(6) of The Insolvency and Bankruptcy Code is discounted, the respondent's continuing participation in the arbitration after 7th May, 2023 would be taken as implied consent under Section 29A(3) of the Act.

The dates as stated above show that the mandate of the learned Arbitrator expired on 7th November, 2023. The application for extension was filed on 19th October, 2023.

Considering the fact that the respondent's participation amounts to deemed consent for the purposes of Section 29A(3) and the pleadings were completed within the timelines of the 1996 Act, the Court is inclined to allow the application for extending the mandate of the learned Arbitrator. This is the first application for such under Section 29A(4) of the Act. The Court is informed that the parties are at the stage of arguments.

AP/796/2023 is accordingly allowed and disposed of by extending the learned Arbitrator's mandate for four months from 7th November, 2023.

(MOUSHUMI BHATTACHARYA, J.)