

Kavita S. J.

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**INTERIM APPLICATION NO.16830 OF 2023
IN
ARBITRATION PETITION NO.89 OF 2019**

M/s Ashoka Buildcon Ltd.

...Applicant / Petitioner

Versus

**Maharashtra State Electricity Distribution
Co. Ltd.,**

...Respondent

Mr. Shubham Hundia i/b Sriraj G. Menon, Advocate for
Applicant/Petitioner.

Mr. Soham Bhalerao i/b DSK Legal, Advocate for Respondent.

CORAM : R.I. CHAGLA, J.

DATE : 31ST OCTOBER, 2023.

ORDER :

1. By this Interim Application, the Applicant/Original
Petitioner is seeking extension of mandate for declaration of Award
under Section 29A of the Arbitration and Conciliation Act, 1996 upto
31st October, 2024.

2. The learned Advocate appearing for the Applicant has
referred to the prior order dated 26th June, 2019 by which this Court

KAVITA
SUSHIL
JADHAV

Digitally signed
by KAVITA
SUSHIL JADHAV
Date: 2023.11.03
18:17:57 +0530

had appointed the Arbitral Tribunal for arbitrating the dispute and differences between the parties under the Letter of Award dated 6th January, 2011. Thereafter, by a subsequent order dated 14th December, 2022, the mandate of the Arbitrator had been extended as per joint request of the parties upto 31st October, 2023.

3. An Application had been filed by the Respondent for impounding the said Letter of Award on 13th March, 2020. However, on 7th August, 2023, the Arbitral Tribunal in view of the decision of the Supreme Court 5 Judge Bench in **2023 SCC Online SC 495 – M/s N.N. Global Mercantile Pvt. Ltd. Vs. M/s Indo Unique Flame Ltd.** had adjourned the proceedings for both sides to intimate their stand after careful examination of the said decision. The relevant Minutes of Minutes dated 7th August, 2023 has been annexed at Exhibit-F to the Interim Application.

4. The Applicant states that it had demanded from the Respondent the original Contract Agreement for making it available before the Competent Authority for adjudication of deficit Stamp Duty and for willingness to pay Stamp Duty. Further, the consent of the Respondent was sought for extending the time for declaration of the Award vide application dated 25th August, 2023.

5. The Respondent vide its E-mail dated 21st September, 2022 granted consent for extension of time but expressed inability to provide original agreement as it was not traceable. The Respondent also consented for supporting the Claimant in its payment of Stamp Duty on the copy of the Agreement.

6. The Applicant has stated that the parties are diligently pursuing the Arbitration matter, but in order to ensure payment of deficit Stamp Duty if any, time will be taken and accordingly, the present application has been filed for extension of time for declaration of the Award upto 31st October, 2024 in the interest of justice and equity.

7. The Applicant has stated that the respective evidence in the Arbitration proceedings have been completed and the stage is at final hearing when the Arbitral Tribunal has considered the aspect of the application of *M/s N.N. Global (supra)*.

8. I have considered the averments in the Interim Application as well as the prior order passed by this Court including the order dated 14th December, 2022 by which the time period for declaration of Award had been extended by this Court under Section 29A of the

Arbitration Act upto today. Further, the fact that the Arbitral proceedings is at the stage of final hearing when the aspect of the application of the decision of the Supreme Court in *M/s N.N. Global (supra)* is also being considered.

9. In my view, the period of nine months is adequate considering that the Arbitral Tribunal was appointed by an order dated 26th June, 2019 passed by this Court in a Petition filed under Section 11 of the Arbitration Act.

10. The learned Counsel for the parties have agreed for extension of time and therefore, by consent, the following order is passed :

(i) The mandate of the Sole Arbitrator is further extended for concluding the arbitral proceedings and passing of the Award under Section 29A of the Arbitration Act by a period of nine months from today.

(ii) The Interim Application is accordingly disposed of.

[R.I. CHAGLA, J.]