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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

COMM ARBITRATION PETITION NO.23 OF 2023

Skyway Infraprojects Pvt. Ltd.

...Petitioner

Versus

Kulgaon Badlapur Municipal Council

...Respondent

Vishwajit P. Sawant, Senior Advocate with Prabhakar Jadhav for the
Petitioner.

Mr. N.R. Bubna for the Respondent.

CORAM : R.I. CHAGLA J.

DATE : 1ST NOVEMBER, 2023.

ORDER :

1. By this Commercial Arbitration Petition, the Petitioner is seeking extension of mandate by a period of six months with effect from 29th August, 2023 for completing the arbitral proceedings and making the award.

2. An Arbitration Petition was filed by the Petitioner under Section 11 of the Arbitration and Conciliation Act, 1996 ("Arbitration Act") being Arbitration Petition (St.) No.29480 of 2019 for

appointment of a sole arbitrator to adjudicate upon the dispute between the Petitioner and Respondent under an agreement in work order dated 15th February, 2010 which is treated to be a tender and on tender conditions. This Court had appointed Mr Rajesh G. Ketkar, Former Judge of this Court, as sole arbitrator to adjudicate upon the disputes and differences between the parties. This was by order dated 4th September, 2020 which has been annexed at Exhibit 'A' to the Petition.

3. The pleadings before the Sole Arbitrator were completed on 16th March, 2021. Thereafter, the Petitioner has filed Affidavit in Lieu of Examination in Chief of its 1st witness (CW1) on 25th October, 2021 and 2nd witness (CW2) on 18th July, 2022. The cross examination of CW1 was conducted on 27th November, 2021, 28th November, 2021, 24th December, 2021 and 9th February, 2022. Cross examination of CW2 was conducted on 24th September, 2022 and 4th October, 2022. Thereafter, the Respondent has filed Affidavit in lieu of Examination in Chief of its 1st witness (RW1) on 19th October, 2022. Cross examination of RW1 were conducted on 16th December, 2022, 17th February, 2023, 18th February, 2023, 14th April, 2023, 12th May, 2023 and 9th June, 2023.

4. The Petitioner has stated that the present Arbitration Petition was argued finally by the Petitioner's Advocate on 4th August, 2023, 5th August, 2023 and 26th August, 2023. The Respondent's Advocate has thereafter argued on 15th September, 2023 and 16th September, 2023 and now date has been fixed on 9th November, 2023 for rejoinder argument of the Petitioner and proceedings will then be reserved for passing of award with directions to file written submissions.

5. Mr. Vishwajit Sawant, the learned Senior Counsel appearing for the Petitioner has placed reliance upon the order of the Supreme Court dated 10th January, 2022 which had extended the period of limitation i.e. the period from 15th March, 2020 till 28th February, 2022 on account of the Covid 19 pandemic. Accordingly, the period of twelve months to make the award as prescribed in Section 29-A(1) began only from 1st March, 2022 and the same would end on 29th August, 2023.

6. Having considered the averments in the Arbitration Petition for extension of mandate under Section 29A(4) read with 29A (3) as well as the submissions of Mr. Sawant on behalf of the

Petitioner, it would be appropriate to extend the mandate of the Arbitrator by a period of six months from 29th August, 2023. This would serve the ends of justice and would enable the learned Arbitrator to conclude the arbitral proceedings and to pass the award.

7. In that view of the matter, the relief sought for in the Arbitration Petition is granted. Hence, I pass the following Order:-

(i) The mandate of the Sole Arbitrator appointed by this Court vide Order dated 4th September, 2020 is extended by a period of six months for completion of arbitration proceedings and making award with effect from 29th August, 2023.

(ii) The Arbitration Petition is disposed of.

(iii) There shall be no order as to costs.

[R.I. CHAGLA J.]