

K.S. Jadhav

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

INTERIM APPLICATION NO. 1919 OF 2020

IN

ARBITRATION PETITION (L) NO. 205 OF 2020

Vijay Hiralal Jaiswal

**...Applicant/
Petitioner**

Versus

**The Board of Trustees of Jawaharlal Nehru
Port Trust**

...Respondent

Ms. Karuna Yadav a/w Mr. Udaybhan Tiwari i/b Udaya Sankar
Samudrala, Advocate for Petitioner.

Mr. Milan Bhise, Advocate for Respondent.

CORAM : R.I. CHAGLA, J.

DATE : 3RD JULY, 2023.

ORDER :

1. By this Interim Application, the Applicant/Original
Petitioner has sought condonation of delay of 29 days in filing the
present Arbitration Petition under Section 34 of the Arbitration and
Conciliation Act, 1996.

2. The Applicant has in Paragraph 4 of the Interim Application stated that the impugned Award was sought to be challenged by the Applicant under Section 34 of the Arbitration and Conciliation Act, 1996 and accordingly, papers were handed over to the Advocate Shri. Uday Shankar Samudrala. It is further stated that the Arbitration proceedings being very old and voluminous, it took time to explain and understand the matter. Thereafter, it had been stated that the expired Advocate for personal reason had to leave for USA on 19th November, 2019 and returned to India only on 16th January, 2020. Although, the impugned award has been passed on 12th October, 2019, it is stated that the Arbitration Petition was filed on 10th February, 2020 after the erstwhile Advocate had returned from USA and holding of meetings with the Petitioner.

3. The Applicant has further stated that the three months provided under Section 34(3) of the Arbitration and Conciliation Act, 1996 expired on 12th January, 2020 and the present Arbitration Petition is affirmed and filed on 10th February, 2020. Thus, there is a delay of 29 days in preferring the present Petition.

4. Having perused the Interim Application as well as the reasons given for the delay in filing the Arbitration Petition which is

being filed on 29th day after the expiry of the statutory period of three months provided under Section 34(3) of the Act, there is no proper justification for the delay in filing the Arbitration Petition.

5. The Applicant has only stated that his erstwhile Advocate had left for USA on 19th November, 2019 for personal reason and there is no mention as to why the Applicant could not have briefed another Advocate during his absence for meeting of limitation period prescribed under Section 34(3) of the Act which expired on 12th January, 2020.

6. The delay in filing the Arbitration Petition cannot be stated to be unintentional and therefore, does not deserve to be condoned.

7. Accordingly, the Interim Application is rejected.

[R.I. CHAGLA, J.]