

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
COMMERCIAL ARBITRATION PETITION NO. 339 OF 2023**

Nandubala Mahesh Thakkar and others	...	Petitioners
vs.		
Manilal Commodities Private Limited	...	Respondent

Mr. Vivek Kantawala a/w. Mr. Amey Patil, i/b. Shanay Bafna for petitioners.

Mr. Udayan S. Jain for respondent.

**CORAM : MANISH PITALE, J.
DATE : 26th SEPTEMBER, 2023**

P.C. :

. Heard learned counsel for the parties. This is a petition filed under Section 29A of the Arbitration and Conciliation Act, 1996, seeking extension of mandate of the learned arbitrator.

2. It is submitted that the respondent declined to give consent for extension of mandate of the learned arbitrator by a period of six months, as provided under Section 29A(3) of the said Act, necessitating filing of the present petition.

3. The present proceedings were adjourned on 28.08.2023 as the respondents appeared through counsel and sought time to file reply affidavit, indicating that the respondent would be opposing the prayer made in the present petition.

4. Affidavit in reply has been placed on record and the prayer made in the present petition is opposed on various grounds.

5. Learned counsel for the petitioners submits that in the arbitral proceedings, the pleadings were completed on 10.02.2022 and an application filed on behalf of respondent under Section 16 of the said Act,

was rejected on 21.01.2023. It is submitted that the respondent indicated his intention to challenge the said order, which according to the petitioner, can be challenged only at the stage of challenging the final award.

6. Be that as it may, the proceedings before the learned arbitrator were adjourned on the ground that the respondent intended to challenge the said order.

7. It appears that thereafter the proceedings before the learned arbitrator did not proceed and as on today, applications under Section 17 of the said Act in the claim and counter-claim, are pending consideration before the learned arbitrator. In the meanwhile, the mandate of the learned arbitrator has expired.

8. Learned counsel for the petitioners submits that in these circumstances, despite the fact that the respondent has opposed the prayer made in the present petition, in the interest of justice and in the interest of both the parties, this Court may consider granting the prayer made in the present petition.

9. Learned counsel for the respondent invited attention of this Court to the contents of the reply affidavit and he submits that the prayer made in the present petition does not deserve to be granted, firstly for the reason that the parties, who have filed the present petition, are not parties in the arbitral proceedings and secondly, it is submitted that if the true purport of Section 29A of the Act is appreciated, sufficient grounds are not made out for grant of extension of mandate and there is no semblance of explanation on behalf of the petitioners as to why have they approached this Court after considerable delay.

10. This Court has considered the rival submissions. Insofar as the petitioners not being parties to the original arbitration proceedings is concerned, it is brought to the notice of this Court that the petitioners are indeed claimants before the learned arbitrator. Hence, there is no substance in the said contention. As regards delay on the part of the petitioners in approaching this Court while seeking extension of mandate of the learned arbitrator, this Court is of the opinion that the chronology of events brought to the notice of this Court shows that as on today, the learned arbitrator has rejected the application under Section 16 of the said Act, filed on behalf of the respondent. Statement of claim of the petitioner alongwith application under Section 17 of the said Act, is pending consideration. Similarly, counter-claim of the respondent alongwith application under Section 17 of the said Act is also pending.

11. This Court fails to understand as to what purpose would be served if the contentions of the respondent are accepted and prayer for grant of extension of mandate of the learned arbitrator, is declined. Evidently, the arbitral proceeding would not terminate. It would unnecessarily burden the parties with further litigation and proceedings. This can be obviated by extending the mandate of the learned arbitrator, so that the proceedings in the claim as well as counter-claim can proceed further.

12. This Court is satisfied that sufficient ground is made out for allowing the present petition.

13. Accordingly, the petition is allowed and the mandate of the learned arbitrator is extended for a period of one year from today.

(MANISH PITALE, J.)

Priya Kambli