

AP-COM/979/2024

IN THE HIGH COURT AT CALCUTTA
ORDINARY ORIGINAL CIVIL JURISDICTION
ORIGINAL SIDE
(Commercial Division)

RAMESH SHAW AND ANR.

-VERSUS-

SANJAY SHAW.

BEFORE:

The Hon'ble JUSTICE SHAMPA SARKAR

Date: 10th December, 2024

Appearance:

*Mr. Altamas Alim, Adv.
...for the Petitioner.*

*Ms. Sakshi Kejriwal, Adv.
...for the respondent.*

The Court: This is an application under Section 29A(4) and (5) of the Arbitration and Conciliation Act, 1996.

The petitioner as claimant has prayed for extension of mandate of the learned Arbitrator which expired on March 15, 2023.

Learned advocate for the respondent vehemently opposes extension on the ground that the instant application has been filed after a year from the expiry of the expiry of the mandate. The ground of illness of the petitioner could not be substantiated as the medical documents could not be relied upon. She further contends that the application is barred on the ground of inordinate delay.

Learned advocate for the petitioner opposes such submission of the respondent, inter alia, relying upon the decision of the Hon'ble Apex Court in the case of *Rohan Builders (India) Pvt. Ltd. vs. Berger Paints India Limited* reported in 2024 INSC 686. Placing reliance on paragraph 13 of the said decision, he submits that Courts should be wary in prescribing any specific period of limitation, where the legislature has refrained from doing so.

Having heard learned advocates for the respective parties, this Court is of the view that as Section 29A of the 1996 Act has not prescribed any period of limitation, it would not be proper for the Court to re-write the statute by importing a period which was not envisaged by the legislature. Had the legislature intended to prescribe the period, it would have done so. In my opinion, in such a situation, the application has to be filed within a reasonable period. However, as the intention of the legislature in promulgating the said Act was to ensure speedy disposal of commercial disputes, parties are to act diligently and vigilantly. Under such circumstances, this Court is of the view that unless the mandate is extended, the consequence would be fatal to the parties. Thus, the delay, even if prolonged, cannot be a ground for rejecting this application as the statute is silent on the period within which an application under Section 29A is to be filed.

Under such circumstances, the mandate of the Arbitrator is extended by a period of one year to enable the learned Arbitrator to

continue with the proceedings and make and publish his award within the extended period. Parties are directed to co-operate.

Accordingly, AP-COM/979/2024 is disposed of.

All parties including the learned Arbitrator are to act on the basis of the server copy of this order.

(SHAMPA SARKAR, J.)

A/s.