OCD 21

ORDER SHEET
AP-COM/825/2024
IN THE HIGH COURT AT CALCUTTA
ORDINARY ORIGINAL CIVIL JURISDICTION
COMMERCIAL DIVISION

AKA LOGISTICS PRIVATE LIMITED
VS
DAMODAR VALLEY CORPORATION

BEFORE:
The Hon'ble JUSTICE SABYASACHI BHATTACHARYYA
Date: 18th September, 2024.

Appearance:
Mr. Shounak Muikhopadhyay, Adv.
. . .for the petitioner.

Mr. Swarajit Dey, Adv.
Ms. Riddhi Jain, Adv.
. . .for the respondent.

The Court: Heard learned counsel for the parties. There were two previous extensions of the mandate of the learned arbitrator in the present case. By an order dated May 2, 2024, a coordinate Bench had extended the time for a limited period with the rider that it was made clear that the said direction was peremptory in nature and no further extension would be granted to either of the parties.

From the minutes recorded in the arbitral proceeding dated September 3, 2024, it transpires that the senior advocate appearing for the claimant fell ill and had suddenly to be hospitalized for treatment of his heart ailment, for which the tribunal was informed that complete bed rest was advised to said counsel for six

weeks. Under such compelling circumstances, the arbitral tribunal adjourned the matter and the present extension is sought.

Despite the observation in the order dated May 2, 2024 that the said extension was the last, such direction, in the peculiar facts and circumstances and the subsequent developments in the present case, is required to be treated as a direction *in terrorem* and not an absolute mandate.

In view of the exigent nature of the subsequent development as reflected from the minutes dated September 3, 2024, the arbitral tribunal cannot be blamed for the delay in concluding the arbitral proceeding.

Accordingly, AP-COM 825 of 2024 is allowed, thereby extending the mandate of the learned Arbitrator till March 31, 2025. It is made clear that the said extension shall be deemed to operate from the date when the mandate is deemed to terminate i.e. on and from November 2, 2024.

(SABYASACHI BHATTACHARYYA, J.)

SP/