

Kavita S. J.

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

INTERIM APPLICATION NO.3114 OF 2021

IN

ARBITRATION PETITION NO.453 OF 2021

Sharekhan Ltd.,

**...Applicant /
Org. Petitioner**

Versus

Amol Lunkad & Anr.,

...Respondents

WITH

INTERIM APPLICATION NO. 3093 OF 2021

IN

ARBITRATION PETITION NO. 453 OF 2021

Mr. Rohan Cama, Counsel a/w Mr. Deepak Sharma i/b DNS Legal,
Advocate for Applicant/Original Petitioner.

Mr. Ajinkya Udane, Advocate for Respondent No.1 in ARBP
470/2021 (through V.C.) present.

Ms. Dipti Jadhav i/b Khandelwal, Advocate for Respondent Nos. 1&2
in IA 3097/2021 in ARBP 475/2021.

CORAM : R.I. CHAGLA, J.

DATED : 29TH JANUARY, 2024.

ORDER :

KAVITA
SUSHIL
JADHAV

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1. By this Interim Application, the Applicant/Original
Petitioner is seeking condonation of delay in filing the Arbitration
Petition. Further, the relief is sought for stay on the effect, operation

and implementation of the impugned Arbitral Awards dated 30th July, 2020 and 29th October, 2020.

2. The Applicant / Original Petitioner states that the impugned Award was passed on 30th July, 2020 i.e. during the lock-down period imposed by the State Government on account of Maharashtra COVID Regulations and separate notifications issued under the National Disaster Management Act, 2005. The impugned Award was received by the Applicant on 9th September, 2020.

3. The Arbitration Petition was attempted to be filed after the lock-down was lifted on 4th December, 2020. The Department of this Court brought to the notice of the Applicant that the Arbitration Petition could not be numbered as there was deficit in Court Fees and the Petition would only be numbered after the Applicant undertook to affix deficit Court Fees. The Arbitration Petition was ultimately filed on 7th December, 2020.

4. The Applicant has accordingly stated that the delay is not intentional and if delay is not condoned, grave and irreparable damages will be caused to the Applicant which cannot be compensated.

5. Mr. Cama, learned Counsel appearing for the Applicant/Original Petitioner states that the Interim Application for condonation of delay had been filed due to the instructions then given to the Applicant/Original Petitioner. Further, upon considering that the impugned Award has been passed during the extension of the limitation period which had been granted by the Supreme Court vide order dated 10th January, 2022 and which extension was in operation from 15th March, 2020 till 20th February, 2022 as well as the fact that the Arbitration Petition was also filed during the extension of limitation period, there is no delay in filed the Arbitration Petition. Accordingly, he has submitted that the Application for condonation of delay which was filed on 7th December, 2020 has become infructuous.

6. Having considered the submissions, in my view, there is much merit in the submission of Mr. Cama that there is no delay in filing the Arbitration Petition on account of the subsequent order passed by the Supreme Court extending the limitation period. Hence, prayer Clause (a) of the Interim Application has become infructuous.

7. In so far as the prayer Clause (b) is concerned, the Applicant/Original Petitioner has sought stay on the effect, operation

and implementation of the impugned Arbitral Awards. By a series of orders passed by this Court, in similar situation, where the amount was lying in the account of the Petitioner with the National Stock Exchange (“NSE”) and NSE had communicated that they will release the amount to the Respondents, this Court has directed NSE to deposit the awarded amount with the Prothonotary and Senior Master of this Court. A similar order is also required being passed in the present case.

8. The NSE is accordingly directed to deposit the awarded amount with the Prothonotary and Senior Master of this Court within a period of two weeks from today and subject to such deposit the impugned Award dated 30th July, 2020 is stayed.

9. The NSE shall act on an authenticated copy of this order which shall be served upon them by the Advocates for the Petitioner and Respondents.

10. Liberty is granted to the Respondents to withdraw the deposited amount upon furnishing 100% Bank Guarantee of a nationalized bank to secure the same.

11. The Interim Application is accordingly disposed of.
12. The Arbitration Petition shall be placed for hearing at the admission stage on 20th March, 2024 at 2.30 p.m.

[R.I. CHAGLA, J.]