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**Application Nos.4379 of 2024**

**in**

**Arb.O.P.No.23 of 2024**

**Dr.G.JAYACHANDRAN, J.**

The petitioner herein being aggrieved by the award passed by the arbitrator on 25.11.2022 challenged it before this Court under Section 34 of Arbitration Act on the ground that the sole arbitrator had passed the award without affording adequate opportunity to the petitioner to defend the case. Specifically, it was contended by the petitioner that on receipt of the notice from the arbitrator, he engaged a Counsel to defend his case. Accordingly his Counsel appeared before the Arbitrator on 22.09.2022 and thereafter, the matter was adjourned to 20.10.2022 and further adjourned to 13.11.2022 and 17.11.2022. The petitioner Counsel on those days were not able to appear due to torrential rain and sent an e-mail seeking adjournment. However, the arbitrator proceeded with the arbitration proceedings and passed an *exparte* award.

2. This Court, on considering the grounds on which the award was challenged entertained the appeal and granted stay with the following condition.



*“Taking into consideration that the award had been passed ex parte and that the petitioner had not been afforded opportunity and the arbitrator could very well have waited for one hearing date for appearance of the counsel and then passed an award on merits, there shall be an order of stay provided the petitioner deposits a sum of Rs.2.5/- lakhs to the credit of Arb.O.P.No. 23 of 2024. Such deposit to be made on or before 12.08.2024 and reported to this Court on 12.08.2024. If the amount is deposited, the Registry may endeavour to transfer the said amount in any one of the Nationalised Banks in fixed deposit earning interest.”*

3. Thereafter, when the case was taken up for consideration, the Learned Counsel sought for extension of time for complying the condition imposed by this Court vide order dated 02.07.2024. Taking note of the submission, on 06.09.2024, this Court extended the time to comply the condition till 20.09.2024. Thereafter, the matter was adjourned twice but till date, the condition not complied.

4. Today (04.11.2024), the Learned Counsel for the applicant represented that he has filed another application for extension of time and some



more time may be granted for complying the condition.

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5. This Court is conscious of the fact that when interim stay of proceedings granted by this Court on 02.07.2024, it was made clear that the petitioner should deposit Rs.2.5/- lakhs to the credit of Arb.O.P.No.23 of 2024 on or before 12.08.2024. Subsequently, on the request of the plaintiff counsel time was extended till 20.09.2024 and thereafter, almost 45 days lapsed but till date, the condition not complied. Even when the extension of time was granted on 06.09.2024, this Court made it clear that if the condition is not complied on or before 20.09.2024, stay will be automatically vacated. While so, there is no purpose in extending the time again and again when there is no bonafide intention on the part of the petitioner. Hence, the application for extension of time stands dismissed for non-compliance.

**04.11.2024**

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