



Appln.No.710 of 2024

Application No.710 of 2024

WEB CO **C.SARAVANAN, J.**

This application has been filed under Section 29A(4) of the Arbitration and Conciliation Act, 1996 to extended the mandate of the learned arbitrator.

2. The case was reserved for passing the Award. Since the mandate of the learned Arbitrator expired, an order was passed by the learned Arbitrator on 11.08.2023. Relevant portion of the order of the learned Arbitrator reads as under:-

The mandate of this Tribunal is expires on 09.09.2023. The Learned counsel for the claimant submits that the claimant will file an application before the Hon'ble High Court seeking extension of time. The Learned Counsel for the Respondent assures that if any application filed, the Respondent would say no objection before the Hon'ble High Court for extension of time. The said submissions are recorded. Passing of the Award is reserved.



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3. The learned counsel for the applicant submits that although the application has been filed as early as 30.08.2023, it was numbered only in 2024 as the counsel who was following the case at the Registry had left the office of the counsel for the applicant and therefore office of the learned counsel for the applicant failed to notice that the application had been returned and therefore the above application was not represented at the Registry in time.

4. The learned counsel for the respondent submits that this application is mis-conceived and is liable to be dismissed. It is submitted that the learned Arbitrator had passed an order on 11.08.2023. Despite the same, no steps were taken either for filing this application earlier or any steps taken for numbering this application. That apart, it is submitted that the application was filed by a Rajesh Kumar Jain, who claims to be Director, Libra Nissan, (A Unit of M/s.RK Earthmovers Pvt.Ltd) who is not a party to the arbitration.



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5. That apart, it is submitted that the dispute is not arbitrable. It is therefore submitted that on this count also this application is liable to be dismissed as there is no point in extending the mandate belatedly.

6. That apart, the learned counsel for the respondent would further submitted that as per the further decision of the Calcutta High Court, once the mandate of the arbitrator has expired and no further orders can be passed for extending the mandate of the arbitrator. Hence, it would submit that the said decision can be followed to dismiss this Application.

7. He would further submit that the affidavit filed in support of the present application is bereft of details and therefore on this count also this application is liable to be dismissed.



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8. Finally, the learned counsel for the respondent would submit that if at all, Court is inclined to allow this application, Court may impose costs upon the applicant.

9. I have considered the arguments advanced by the learned counsel for the applicant and the learned counsel for the respondent. I find no merits in the objections raised by the leaned counsel for the respondent.

10. The issue as to be arbitrability has to be decided by the Arbitrator. This was the subject matter of the objection of the respondent before the learned Arbitrator. The issue now stands concluded against the respondent. I also find no reasons for imposing costs as admittedly, the application was filed 30.10.2023 within few days after the mandate of the arbitral Tribunal expired on 09.09.2023.



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11. Therefore, this Application stands allowed. The learned Arbitrator is requested to pass an Award within a period of three months from the date of receipt of a copy of this order.

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12.02.2024



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