



\$~37

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ O.M.P. (MISC.) (COMM.) 166/2024 & I.A. 4984/2024
CINEPOLIS INDIA PVT. LTD Plaintiff
Through: Mr. Varun Mudgal, Mr. Rishab
Tyagi and Mr. Pauras Tyagi,
Advocates.

versus

ALAN INFRATECH PRIVATE LIMITED & ANR.

..... Defendants
Through: Mr. Nakul Mohta, Mr. Amulya
Upadhyay and Mr. Ayush Kashyap,
Advocates for R-1.

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

04.03.2024

%

By way of the present petition filed under section 29A (4) & (5) of the Arbitration & Conciliation Act 1996 ('A&C Act'), the petitioner seeks extension of mandate of the learned Sole Arbitrator who is seized of their disputes with the respondents.

2. Issue notice.
3. Mr. Nakul Mohta, learned counsel appears on behalf of respondent No.1 on advance copy; accepts notice; and does not oppose the prayer made in the petition.
4. From the record it is seen that the learned Sole Arbitrator was appointed *vide* order dated 21.01.2020 in ARB.P. 334/2019 and has been seized of the proceedings ever since, which proceedings are now stated to be at the stage of final arguments on behalf of respondent No.1/non-claimant.



5. *Vide* order dated 13.09.2023 made in O.M.P.(MISC.)(COMM.) 393/2023, the mandate of the learned Sole Arbitrator was extended upto 13.03.2024.
6. Learned counsel for the parties inform the court that respondent No.2 was undergoing Corporate Insolvency Resolution Process ('CIRP') and counsel had appeared on behalf of the Resolution Professional ('RP') appointed by respondent No.2 in the arbitral proceedings; and had requested that the arbitral proceedings be adjourned *sine-die* till the disposal of the CIRP proceedings before National Company Law Tribunal ('NCLT'). It is pointed out that this has also been recorded by the learned Arbitrator in order dated 20.02.2024.
7. As perusal of the record shows, that since respondent No.2 was not being represented before the learned Arbitrator, nor was any communication being received by the learned Arbitrator from respondent No.2, *vide* order dated 19.09.2022 the learned Arbitrator recorded that he proposed to proceed *ex-parte* against respondent No.2. The learned Arbitrator further recorded that the petitioner and respondent No.1 were agreeable that arbitral proceedings be continued, with the caveat that since the case against respondent No.1 and respondent No.2 was intertwined, the *arbitral proceedings would continue at the risk of the claimant* since there was a moratorium against respondent No.2.
8. Mr. Mohta submits that they do not object to the present petition being allowed and the mandate of learned Arbitrator being extended, subject to the same caveat. The statement made by counsel for respondent No. 1 is taken on record.



9. In view of the above, the petition is allowed, thereby extending the mandate of the learned Sole Arbitrator by a period of 06 months commencing 14.03.2024.
10. The petition is disposed-of.
11. Pending applications, if any, also disposed-of.

ANUP JAIRAM BHAMBHANI, J

MARCH 4, 2024

V.Rawat