



2024 : DHC : 2046



\$~42

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

% ***Date of decision: 11th March, 2024***

+ **O.M.P.(MISC.)(COMM.) 192/2024**

GAMUT BUILDCON PVT LTD Petitioner

Through: Mr. Atul Verma, Advocate.

versus

MAHIMA PRODUCTION LTD Respondent

Through: Mr. Kunal Kalra, Advocate.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T (oral)

I.A. 5580/2024 (Exemption)

Exemption allowed, subject to all just exceptions.

The application stands disposed of.

O.M.P.(MISC.)(COMM.) 192/2024

1. The petition under Section 29(A)(4) of the Arbitration and Conciliation Act, 1996, has been filed on behalf of the petitioner seeking extension of mandate of the learned Arbitrator, to complete the Arbitration proceedings.

2. It is submitted in the Petition that the learned Arbitrator was directed to be appointed by this Court *vide* Order dated 15.03.2022, in Arbitration Petition No. 329/2022 and the matter was referred to DIAC. The statement of claim and counter-claim, as well as the rejoinder to the counter-claim, has



been filed by the parties. Three frivolous applications have been filed on behalf of the respondent, which has led to further delay in the proceedings before the learned Arbitrator. The cross-examination of the petitioner's witness CW-1 was commenced on 11.08.2023, by the respondent, which is continuing since last eight months and has consumed 10 dates but the cross-examination has not been completed till date.

3. Further cross-examination of CW-1 is listed for 14.03.2024. It is submitted that just to delay the proceedings, the respondent stopped the cross-examination on 15.01.2024, by claiming that he does not wish to further cross-examine of CW-1 and that he intends to move an appropriate application, on 02.02.2024.

4. An application under Section 12 (3)&(4) of the Act, was filed by making scandalous allegations against the Arbitrator, which has been dismissed *vide* Order dated 29.02.2024 and now the matter is again listed for cross-examination of CW-1 on 14.03.2024 and for evidence of CW-2 on 15.03.2024 and 16.03.2024. It is, therefore, submitted that the mandate of the learned Arbitrator which has expired on 03.03.2024, may be extended.

5. Learned counsel for the respondent has taken an objection to the continuation of the proceedings by the same Arbitrator. After some submissions, both the parties have agreed that the mandate may be extended but the learned Arbitrator may be changed.

6. **Submissions heard.**

7. Without prejudice to the rival contentions raised by the parties and in view of Section 29A Clause 6, as well as, with the consent of the parties, the learned Arbitrator is substituted and Mr. Shyam Sharma, Advocate, (M) 9810153965 is hereby appointed as the Arbitrator and the mandate of the



learned Arbitrator is extended by six months from 03.03.2024.

8. The parties are at liberty to raise their respective objections before the Arbitrator.

9. The fees of the learned Arbitrator would be fixed in accordance with the IV Schedule to the Act, 1996 or as consented by the parties.

10. This is subject to the Arbitrator making necessary disclosure as under Section 12(1) of A&C Act, 1996 and not being ineligible under Section 12(5) of the A&C Act, 1996.

11. Learned counsel for the parties are directed to contact the learned Arbitrator within one week of being communicated a copy of this Order to them by the Registry of this Court.

12. Accordingly, the Arbitration Petition is accordingly allowed and disposed of.

(NEENA BANSAL KRISHNA)
JUDGE

MARCH 11, 2024/RS