

ORDER SHEET

IN THE HIGH COURT AT CALCUTTA
Ordinary Original Civil Jurisdiction
ORIGINAL SIDE
(Commercial Division)

AP-COM/673/2025

THE INDURE PRIVATE LIMITED
Versus
BHARAT HEAVY ELECTRICALS LIMITED

BEFORE:

The Hon'ble JUSTICE GAURANG KANTH

Date : 4th November, 2025.

Appearance

Mr. Chayan Gupta, Adv.
Mr. Varun Gupta, Adv.
N. Banerjee, Adv.
Mr. Deepankar Thakur, Adv.
...for the petitioner

Mr. Rohit Das, Adv.
Ms. Kishwar Rahman, Adv.
Ms. Sristi Roy, Adv.
For the respondent.

The Court: The petitioner has filed the present application under Section 29A of the Arbitration and Conciliation Act, 1996, seeking an extension of time for the conclusion of the arbitral proceedings and publication of the award.

Learned Counsel for the petitioner submits that the Sole Arbitrator was appointed by this Hon'ble Court vide order dated 9th December, 2019, in AP No. 496 of 2019, under Section 11(6) of the Arbitration and Conciliation Act, 1996. It is further submitted that the arbitral proceedings were continuing before the learned Arbitral Tribunal; however, due to the unfortunate demise of the Sole Arbitrator on 27th July, 2022, the proceedings came to a halt.

Thereafter, on 25th April, 2023, the petitioner/claimant filed an application under Sections 14 and 15 of the said Act, being AP No. 243 of 2023, before this Court, seeking substitution of the deceased Arbitrator. This Court, vide order dated 13th June, 2023, allowed the said application and substituted the deceased Arbitrator with a new Arbitrator.

The mandate of the Arbitral Tribunal expired on 12th August, 2025. By an order dated 23rd July, 2025, the learned Sole Arbitrator recorded that both parties had agreed to file a necessary application before this Court seeking extension of the Tribunal's mandate under Section 29A of the Act. Pursuant to the said understanding, the petitioner has filed the present application seeking such extension.

Although the respondent had consented before the Arbitral Tribunal to move the present application before this Court, but at the time of hearing, learned Counsel for the respondent vehemently opposed the same on the ground of lack of territorial jurisdiction. It is contended that the present application is not maintainable before this Court as it is not the "Court" as envisaged under Section 29A(4) of the Arbitration and Conciliation Act, 1996, in relation to the present matter. According to the respondent, the appropriate forum is the Court having original civil jurisdiction over the matter, namely, the Commercial Court at Rajarhat, which is the principal Civil Court of original jurisdiction.

In support of this contention, learned Counsel for the respondent has relied upon the judgment of the Hon'ble Supreme Court in **Chief Engineer (NH) PWD (Roads) vs. BSC&C and C JV**, reported in **2024 SCC OnLine SC 1801**, wherein it was held that the power under Section 29A(4) vests in the "Court" as defined under Section 2(1)(e) of the Act. It was further held that

the principal Civil Court of original jurisdiction in the district, and not the High Court (unless vested with ordinary original civil jurisdiction), would be the competent authority to entertain such an application.

Reliance is also placed on the judgment of a Coordinate Bench of this Court in ***Nandita Mistri vs. Sanjoy Saha & Anr.***, order dated 2nd September, 2024, passed in **AP No. 96 of 2024**, wherein the Court, following the ratio of ***Chief Engineer (NH) PWD (Roads)*** (supra), held that the District Court at Malda, being the principal Civil Court of original jurisdiction, was competent to entertain an application under Section 29A of the Act, notwithstanding the fact that the Arbitrator had been appointed by this Court under Section 11 of the Arbitration & Conciliation Act, 1996. Learned Counsel for the respondent further submits that in light of the binding precedent of the Hon'ble Supreme Court, the subsequent judgment of a learned Single Judge of this Court in ***Best Eastern Business House Pvt. Ltd. vs. Mina Pradhan (AP-COM/296/2025)*** is *per incuriam*.

Per contra, learned Counsel for the petitioner submits that since the Sole Arbitrator was appointed by this Court while exercising powers under Section 11(6) of the Arbitration and Conciliation Act, 1996, only this Court has the jurisdiction to entertain and decide the present application under Section 29A(4) of the Act. He further relies upon Section 29A(6) of the Act to contend that the competent "Court" for the purpose of extension of the arbitral mandate would be the same Court which appointed the Arbitrator. Learned Counsel submits that this Court has consistently held that the expression "Court" under Section 29A must be interpreted in consonance with the appointing authority under Section 11 of the Act, and hence, the

jurisdiction to consider an application for extension of mandate vests with the same High Court that appointed the Arbitrator.

In support of this submission, reliance is placed on the judgments of this Court in ***Amit Kumar Gupta vs. Dipak Prasad*** reported as (2021 SCC OnLine Cal 2174), ***Best Eastern Business House Pvt. Ltd. vs. Mina Pradhan*** (AP-COM/296/2025), and ***Praxair India Pvt. Ltd. vs. Steel Authority of India Ltd.*** reported as (2024 SCC OnLine Cal 1921). Learned Counsel also cites similar decisions from other High Courts, including the judgment of the Hon'ble Division Bench of the Telangana High Court in ***Civil Revision Petition No. 739 of 2025***, the Hon'ble Division Bench of the Bombay High Court at Goa in ***Sheela Chowgule vs. Vijay V. Chowgule*** (Writ Petition No. 88 of 2024), and the decision of the Delhi High Court in ***DDA vs. Tara Chand Sumit Construction Co.***, reported as ***2020 SCC OnLine Delhi 2501***.

This Court heard the arguments advanced by the learned counsel for the parties and examined the documents placed on record.

Upon consideration of the rival contentions, the core issue that arises for determination is whether this Court, which had appointed the Sole Arbitrator under Section 11(6) of the Arbitration and Conciliation Act, 1996, possesses the jurisdiction to entertain and decide the present application under Section 29A of the Act for extension of the mandate of the Arbitral Tribunal.

This Court has given anxious consideration to the judgments cited on behalf of both parties.

The respondent has placed reliance on the judgment of the Hon'ble Supreme Court in ***Chief Engineer (NH) PWD (Roads)*** (*supra*), wherein the

Apex Court held that the power to extend the mandate of the Arbitral Tribunal under Section 29A(4) vests in the “Court” as defined under Section 2(1)(e) of the Act. The Hon’ble Supreme Court clarified that, unless the High Court exercises ordinary original civil jurisdiction, the competent court to entertain such an application would be the principal Civil Court of original jurisdiction in the district, and not the High Court. This decision has been subsequently followed by a Co-ordinate Bench of this Court in **Nandita Mistri** (supra), wherein it was held that the District Court of Malda being the principal civil court of original jurisdiction was competent to entertain a petition under Section 29A, notwithstanding that the arbitrator had been appointed by this Court under Section 11.

However, this Court finds that the factual matrix and ratio of **Chief Engineer (NH) PWD (Roads)** (supra) are distinguishable in the present context. In that case, the arbitral proceedings had originated before the District Court, and the High Court had not exercised jurisdiction under Section 11(6) in appointing the arbitrator. The emphasis of the Hon’ble Supreme Court therein was on determining the competent forum when the arbitral process emanates from the jurisdiction of the principal civil court. In contrast, in the present matter, the Sole Arbitrator was appointed by this Court itself under Section 11(6) of the Act vide order dated 09.12.2019 in AP No. 496 of 2019.

This Court finds support for its jurisdictional competence from the decision of the Hon’ble Division Bench of the Bombay High Court (Goa Bench) in **Sheela Chowgule** (supra), wherein it was held that once the High Court has exercised its power under Section 11 for appointment of the arbitrator, it retains the jurisdiction to consider a subsequent application

under Section 29A for extension of the mandate. The Bombay High Court reasoned that the scheme of the Act, particularly the conjoint reading of Sections 11, 14, 15, and 29A, indicates that the expression “Court” in Section 29A must be understood contextually to mean the same forum that initially exercised control over the arbitral proceedings, as the said Court alone would be the best place to appreciate the progress and circumstances of the arbitration.

A similar view has been taken by this Court in ***Amit Kumar Gupta*** (*supra*), ***Best Eastern Business House Pvt. Ltd.*** (*supra*), and ***Praxair India Pvt. Ltd.*** (*supra*), wherein it has been consistently held that when the appointment of the Arbitrator is made by the High Court under Section 11(6), the power to extend the mandate of the Tribunal under Section 29A(4) vests with the same High Court. The reasoning is fortified by Section 29A(6), which explicitly empowers the “Court” to substitute the arbitrator while extending the mandate, a power that can only be exercised by the same forum which had appointed the arbitrator under Section 11.

This interpretation also aligns with the judgments of other High Courts. The Division Bench of the Telangana High Court in ***CRP No. 739 of 2025*** and the Division Bench of the Bombay High Court in ***Sheela Chowgule*** (*supra*) have emphasized that the High Court which has appointed the Arbitrator under Section 11 continues to exercise supervisory jurisdiction over the arbitration, including the power under Section 29A. The Delhi High Court in ***DDA vs. Tara Chand Sumit Construction Co.*** (*supra*) has also taken a similar view that the expression “Court” in Section 29A must be understood in light of the appointing authority under Section 11 when the appointment has been made by the High Court.

In light of the above authorities and the statutory scheme, this Court is of the considered view that the ratio of **Chief Engineer (NH) PWD (Roads)** (*supra*) does not denude the High Court of its jurisdiction in a case where the Arbitrator was appointed by the High Court itself under Section 11(6) of the Act. The said judgment does not override the established position that the jurisdiction under Section 29A follows the appointing authority under Section 11. Accordingly, this Court holds that it possesses the jurisdiction to entertain and decide the present application under Section 29A of the Arbitration and Conciliation Act, 1996.

In view of the foregoing discussion and in the peculiar facts and circumstances of the case, the application under Section 29A of the Arbitration and Conciliation Act, 1996 is allowed.

Considering the submissions advanced on behalf of both parties and noting that the evidence in the arbitral proceedings is voluminous and likely to require substantial time to be concluded, this Court finds sufficient cause to extend the mandate of the learned Arbitral Tribunal.

Accordingly, the mandate of the learned Arbitral Tribunal is hereby extended for a further period of eight months from today, to enable the Tribunal to complete the proceedings and publish the award.

The Arbitral Tribunal is requested to make all endeavours to conclude the proceedings and render the award within the extended period. The application, being AP-COM/673/2025, is accordingly allowed.

(GAURANG KANTH, J.)