

OCD-5

ORDER SHEET

IN THE HIGH COURT AT CALCUTTA
ORIGINAL SIDE
(Commercial Division)

AP-COM/749/2025

SHELTER PROJECTS LIMITED
VS
NISHA SKYSCRAPERS PRIVATE LIMITED

BEFORE:

The Hon'ble JUSTICE GAURANG KANTH

Date : 8th December, 2025.

Appearance

Mr. Raghunath Chakraborty, Adv.
Mr. Soumavo Mukherjee, Adv.
Mr. Indranil Munshi, Adv.
...for the petitioner

Mr. Sankarsan Sarkar, Adv.
Mr. Sarbajit Mukherjee, Adv.
Mr. Aditya Kanodia, Adv.
S. Ahmed, Adv.
...for the respondent

The Court: The petitioner has instituted the present petition under Section 14 of the Arbitration and Conciliation Act, 1996, seeking termination of the mandate of the learned sole Arbitrator appointed to adjudicate the dispute between the parties. The sole ground on which the petitioner is seeking the termination of the mandate of the Arbitrator is the ground of undue delay on the part of the learned sole Arbitrator in carrying out the proceedings.

Learned Counsel for the petitioner has drawn the attention of this Court to the various sittings held by the learned sole Arbitrator and, in

particular, states that on 14.05.2025, 19.05.2025, 18.06.2025 and further on 22.08.2025 and 25.08.2025, the Arbitrator despite fixing the dates for the sittings, had adjourned the matter. It is further contention of the petitioner that though the proceeding since its inception was making progress in a desirable manner until March, 2025. However, subsequent to March, 2025, there has been an inordinate delay towards conducting the proceedings, with only two effective sittings being held thereafter, on 23.04.2025 and 31.07.2025.

It is also evident from the record that the petitioner has been seeking adjournments during the course of the arbitration proceedings.

Learned Counsel for the respondent states that the Arbitrator had suffered an injury and the said fact was duly known to the learned Counsel for the petitioner. The petitioner was also aware of the fact that the Arbitrator was under medical advice. It is further submitted that the petitioner has not raised any of the grounds of bias. The only ground alleged in the petition is that the Arbitrator did not hold the sittings, thereby causing undue delay in the arbitration proceedings.

From the perusal of the record, it is evident that the Learned Sole Arbitrator had been regularly conducting the arbitral proceedings without any undue delay until March 2025. The Petitioner himself has admitted this fact. It is only thereafter that the Arbitrator, due to a medical emergency resulting in physical injury, was unable to hold sittings for a brief period. The materials placed on record further indicate that the parties themselves had sought adjournments on multiple occasions. The mere fact that the

Arbitrator adjourned certain hearings owing to his temporary medical condition, which also resulted in his inability to attend regular court proceedings where he practises as an advocate, cannot by any stretch be construed as rendering him *incapacitated* for the purposes of Section 14 of the Arbitration and Conciliation Act, 1996. This circumstance was fully within the knowledge of the Petitioner and his learned counsel. It is, therefore, unfortunate that despite being aware of these facts, the Petitioner has chosen to file the present application.

This Court notes that the scheme of the Act does not support the contention advanced by the Petitioner. Section 14(1) provides that the mandate of an Arbitrator may be terminated only if the Arbitrator becomes *de jure* or *de facto* unable to perform his functions, or otherwise fails to act without undue delay. The legislative guidance as to what constitutes incapacity, conflict of interest, bias, or other circumstances giving rise to justifiable doubts is contained in the Fifth Schedule and, where ineligibility is concerned, the Seventh Schedule to the Act.

The grounds urged in the present petition do not fall within any of the categories enumerated in either Schedule. There is no allegation, let alone any substantiation, of bias, conflict of interest, ineligibility, incapacity, or any statutory bar rendering the Arbitrator *de jure* disqualified under the Seventh Schedule. Nor does the Petitioner disclose any circumstance within the Fifth Schedule that could reasonably give rise to justifiable doubts as to the independence or impartiality of the Arbitrator.

As regards the allegation of delay, the Supreme Court has consistently held that occasional adjournments, temporary unavailability, or administrative difficulty on the part of an Arbitrator do not, by themselves, constitute grounds for termination of mandate under Section 14. The provision contemplates a degree of delay that is demonstrative of abandonment, refusal to act, persistent neglect, ineligibility, incapacity, or such sustained failure as to render continuation impossible. A few adjournments arising out of a temporary medical condition, without any material indicating persistent default or any statutory disqualification, cannot amount to failure to act without undue delay within the meaning of Section 14.

Accordingly, in the absence of any *de jure* or *de facto* inability of the Arbitrator and in the absence of any circumstance attracting either the Fifth or Seventh Schedule, this Court finds the petition to be devoid of merit. The Application is, therefore, liable to be dismissed.

Accordingly, AP-COM/749/2025 stands dismissed.

(GAURANG KANTH, J.)