

OCD-4

ORDER SHEET

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

AP-COM/855/2025

M/S. ZAMIL AIR CONDITIONERS INDIA PVT. LTD.
VS
M/S. SIMPLEX INFRASTRUCTURES LIMITED

BEFORE:

The Hon'ble JUSTICE GAURANG KANTH

Date : 25th November, 2025.

Appearance

Mr. Mrinal Beri, Adv.
...for the petitioner

Mr. Ratul Das, Adv.
Mr. Abhishek Banerjee, Adv.
Ms. Debasmita Nandi, Adv.
...for the respondent

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

It is the case of the petitioner that this Court vide order dated 18.05.2022, appointed the sole Arbitrator to adjudicate the disputes between the parties. The pleadings were completed on 24.08.2023. Thereafter, with the consent of both sides, the mandate of the arbitral tribunal was extended by a further period of six months up to 23.02.2025.

The respondent's evidence has since been concluded and the final arguments are yet to commence. In these circumstances, the petitioner has filed the present application seeking extension of six months for conclusion of the proceedings and publication of the award.

Learned Counsel for the respondent opposes the present application. He states that the petitioner has failed to demonstrate sufficient cause for the delay in filing the application. He further states that after the expiry of the mandate of the Tribunal on 23.02.2025, the petitioner took more than nine months to file the present application. He also submits that the petitioner, in his pleadings has failed to show sufficient cause and cogent reasons for the delay in filing of the application. He has relied on the judgment of the Hon'ble Supreme Court in ***Rohan Builders (India) Private Limited versus Berger Paints India Limited*** reported in ***2024 SCC OnLine SC 2494*** as well as the judgment of the Hon'ble Delhi High Court in ***Skylark Cagers India Pvt. Ltd. Versus Institute of Liver and Biliary Sciences*** reported in ***2023 SCC OnLine Del 1276*** to buttress his argument that in case the petitioner fails to show sufficient cause for the delay in filing of the application, the same shall not be automatically extended. He has relied on Paragraphs 15 and 19 of the Supreme Court judgment which read as follow:-

“15. Rohan Builders (India) Pvt. Ltd. (supra) highlights that an interpretation allowing an extension application post the expiry period would encourage rogue litigants and render the timeline for making the award inconsequential. However, it is apposite to note that under Section 29A(5), the power of the court to extend the time is to be

exercised only in cases where there is sufficient cause for such extension. Such extension is not granted mechanically on filing of the application. The judicial discretion of the court in terms of the enactment acts as a deterrent against any party abusing the process of law or espousing a frivolous or vexatious application. Further, the court can impose terms and conditions while granting an extension. Delay, even on the part of the arbitral tribunal, is not countenanced.²⁸ The first proviso to Section 29A(4) permits a fee reduction of up to five percent for each month of delay attributable to the arbitral tribunal.

...

19. In view of the above discussion, we hold that an application for extension of the time period for passing an arbitral award under Section 29A(4) read with Section 29A(5) is maintainable even after the expiry of the twelve-month or the extended six-month period, as the case may be. The court while adjudicating such extension applications will be guided by the principle of sufficient cause and our observations in paragraph 15 of the judgment.”

Learned Counsel for the respondent states that he has not been able to file his affidavit-in-opposition and that the same would contain only the legal submission which he has already advanced before this Court.

Learned Counsel for the petitioner has drawn the attention of this Court to the conduct of the respondent, wherein it has been observed by the tribunal in its various sittings dated 28.11.2022, 24.02.2023 and 05.06.2023 that the respondent has not been participating in the arbitral proceedings and despite notice, has been avoiding the arbitral proceedings. He has further referred to an order dated 20.06.2023 of the arbitral tribunal wherein it has been noted that the respondent had taken several extensions

for filing of the pleadings but had failed to do so and the tribunal has expressed its anguish in this regard. Mr. Beri submits that the respondent has also filed his counter-claim but has not been diligent in pursuing the same.

Learned Counsel for the petitioner states that the delay in filing the application was neither deliberate nor intentional. According to him, two counter-claims were proceeding simultaneously and evidence was being recorded in both. Due to inadvertent oversight, the present application has been filed belatedly.

This Court has heard the arguments advanced by the Counsel for the parties and perused the materials on record.

It is noted that the arbitral tribunal has substantially progressed and the matter is presently at the stage of final arguments. There has been no material to indicate any delay attributable to the learned Arbitrator in conducting the proceedings. The respondent does not dispute that an extension is required to conclude the proceedings, though he has taken the ground that the petitioner delayed in pursuing the application within time.

Be that as it may, this Court concurs with the respondent that the petitioner ought to have approached this Court with due promptitude to ensure the expeditious completion of the proceedings before the arbitral tribunal. Nonetheless, such delay, by itself, cannot be permitted to defeat or extinguish the substantive rights of the parties. Having regard to the substantial progress already made in the arbitration and in the interest of

justice, the mandate of the arbitral tribunal is, accordingly, extended for a further period of six months from today.

The arbitral tribunal is requested to make all endeavour to conclude the arbitral proceedings and publish the award within the extended time period.

With the aforesaid observation, the present arbitration petition is disposed of.

(GAURANG KANTH, J.)

R.Bhar