

ORDER SHEET

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

AP-COM/886/2025

SMT LUNA DAS AND ANR
VS
M/S SUBARBAN PROPERTIES PVT LTD AND ORS

BEFORE:

The Hon'ble JUSTICE GAURANG KANTH

Date : 12th December, 2025.

Appearance

Md. Shahjahan Hossain, Adv.
Ms. Sanjida Sultana, Adv.
Mr. Prithwiraj Biswas, Adv.
...for the petitioner

Mr. Mrinal Kanti Ghosh, Adv.
Mr. Sounak Mandal, Adv.
Mr. Anirban Saha Roy, Adv.
...for the respondent nos.1 to 3

The Court: The present application has been filed by the petitioners under Section 29A of the Arbitration and Conciliation Act, 1996, seeking termination of the mandate of the Arbitral Tribunal and reconstitution/substitution of the Tribunal on the ground that the Tribunal has substantially delayed the arbitral proceedings.

It is the case of the petitioners that pursuant to the invocation of the arbitration clause contained in the development agreement dated 29.10.2013, the petitioner vide letter dated 21.01.2022 appointed Sri Aniruddh Bagchi as the nominee Arbitrator. The respondents initially nominated Sri Priyabrata Thakur as its nominee Arbitrator, who

subsequently resigned. In his place, the respondent appointed Sri Sourav Sen, Advocate as their nominee Arbitrator. After several sittings, Sri Pratunudev Mukherjee came to be appointed as the presiding Arbitrator vide Minutes of the Meeting dated 07.06.2023.

Learned Counsel for the petitioner further states that the Arbitral Tribunal failed to conclude the arbitral proceedings within the prescribed statutory period of 12 months as per Section 29A(1) of the Act or even within the extended period of six months as per Section 29A(3) of the Act. Consequently, the mandate of the Arbitral Tribunal stood terminated on 16.06.2024 under Section 29A(4). It is submitted that the matter continued to remain at the evidence stage and that the delay is attributable to the Arbitral Tribunal. On this basis, the petitioner prays for substitution of the Arbitral Tribunal.

At the outset, this Court notes that by operation of Section 29-A(4) of the Arbitration and Conciliation Act, 1996, the mandate of the Arbitral Tribunal stood automatically terminated on 16.06.2024. As on date, there is no subsisting Arbitral Tribunal whose mandate can be terminated and, consequently, no occasion arises for exercise of powers under Section 29A(4) or Section 29A(6).

This Court further notes that the present application is defective. The petitioner has not sought any extension of the mandate, either prior to its expiry or even in the present application. Under Section 29A, substitution of an Arbitrator under Sub-Section (6) is permissible only while considering an application for extension of the mandate which is not sought in the present application. Substitution cannot be granted as an isolated relief once the

mandate has already expired. In the absence of a subsisting mandate and in the absence of a prayer for extension of the mandate of the Arbitral Tribunal under Section 29A, this Court lacks jurisdiction to entertain the reliefs sought by the petitioner.

The present application is, accordingly, dismissed as infructuous, being not maintainable.

The petitioners are, however, at liberty to take recourse to appropriate proceedings in accordance with law.

(GAURANG KANTH, J.)

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