

OD-2

AP/853/2023
IN THE HIGH COURT AT CALCUTTA
ORDINARY ORIGINAL CIVIL JURISDICTION
ORIGINAL JURISDICTION

M/S. PREM CHANDRA SINGH
VERSUS
UNION OF INDIA (SE RLY)

BEFORE:
The Hon'ble JUSTICE SHAMPA SARKAR
Date : 22nd January, 2025.

Appearance:
Mr. Pratip Mukherjee, Adv.
Mr. Prasanta Kr. Banerjee, Adv.
. . .for the petitioner.

Mr. Samir Kumar Datta, Adv.
Ms. Debjani Ghosal, Adv.
. . .for the Union of India.

The Court: This is an application for extension of the mandate of the learned Arbitrator who is a senior advocate of this Court. The learned Arbitrator was appointed by order dated March 23, 2021. It is an admitted position that after the expiry of the period as contemplated under Section 29A(1) of the Arbitration and Conciliation Act, 1996, (hereinafter referred to as the 1996 Act) parties consented to a further extension of six months. Such period expired some time in July 2023. The petitioner filed this application in December, 2023 for extension of the mandate. According to the records, the witness action is over and arguments are going on.

Mr. Dutta, learned advocate for the respondent, submits that the decision of the Hon'ble Apex Court in the matter of *N.B.C.C Ltd. Versus J.G. Engineering*

Pvt. Ltd. reported in 2010 AIR SCC 640 would be applicable in the instant case and the Court should refuse to extend the mandate of the learned Arbitrator. Mr. Dutta further contends that the Railway Authorities had spent a lot of money, but the arbitration proceedings could not be concluded. Last contention of Mr. Dutta is that the petitioner filed the application almost six months after termination of the mandate of the learned Arbitrator.

Heard the parties.

Section 29A(4) of the 1996 Act, provides that if the award is not made within the period specified in Sub-section (1) or the extended period specified under Sub-section 3, the mandate of the Arbitrator shall terminate, unless the Court, either prior to or after the expiry of the period specified, extends such period.

Thus, in the facts of this case Section 29A(4) of the 1996 Act, will be applicable. After expiry of 12 months from completion of pleadings, the parties consented before the learned Arbitrator for extension of the mandate for a further period of six months. The said period expired and the petitioner has approached this court for extension as per Section 29(4) of the 1996 Act. The decision cited by the respondent J. G Engineering Pvt. Ltd. (Supra) was rendered when Section 29A of the 1996 Act, had not been inserted in the Arbitration and Conciliation Act, 1996. Section 29A of the 1996 Act was inserted with effect from October 23, 2015 and the decision of the Hon'ble Apex Court was delivered in 2010, upon taking into consideration the unamended provisions. The petitioner has approached this Court under the appropriate provision of law for extension of the mandate. With regard to the delay in filing the application, the petitioner has

averred that the learned advocate on record for the petitioner was suffering from age related medical ailments and, as such, although the draft has been prepared immediately upon termination of the mandate, the same could not be finalized and affirmed. This is a satisfactory explanation as to the delay committed in filing the application. The application has been filed around five months after the mandate terminated. The Hon'ble Apex Court has held that the application for extension can be filed even after termination of the mandate.

Under such circumstances, this Court deems it fit to extend the mandate of the learned Arbitrator by a further period of six months from the date of communication of this order. This order is passed for the ends of justice as it appears that the proceedings have reached its final stages and arguments are going on. If the mandate is not extended, it will cause prejudice to both the parties who have participated in the proceeding, filed their pleadings, adduced evidence, and have a right to a logical outcome of the proceeding.

The application being AP 853 of 2023 is disposed of.

(SHAMPA SARKAR, J.)

sp/