

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
ARBITRATION PETITION NO. 31 OF 2024

Manoj Nautamlal Shah

...Petitioner

Versus

Dev Land & Housing Ltd.

...Respondent

Mr. Aditya Shiralkar, a/w Yashoda Desai, i/b Shiralkar & Co., for the Petitioner.

Mr. Prathamesh Kamat, a/w Nishant Chothani, Sneha Patil, i/b Maniar Srivastava Associates, for Respondent.

CORAM : SOMASEKHAR SUNDARESAN, J.

DATE : JANUARY 27, 2025

PC :

1. This is a Petition under Section 29-A of the Arbitration and Conciliation Act, 1996 (***“the Act”***). Considering that the extension has been vehemently opposed by the Learned Counsel for the Respondent, this Application would require some articulation of the decision being taken. I am inclined to allow the prayer for extension of mandate as sought in this Application, but subject to payment of costs, for the reasons recorded below.

2. The arbitral tribunal came to be appointed by this Court's order dated January 25, 2018 passed under Section 11 of the Act. The

parties then filed various pleadings in the arbitral proceedings. Suffice it to say, the Statement of Defence having been filed on June 4, 2018, the period of twelve months to be computed under Section 29-A of the Act expired on June 3, 2019. It is evident from the pleadings that the parties have indeed participated in the arbitral proceedings and even the cross-examination of the Claimant's witness and the Respondent's witness had been completed by January 2020. Such activity was covered by the first extension that had been granted on August 14, 2019.

3. Just before the Covid-19 Pandemic left its aftermath on deadlines under various litigation, another extension for a period of six months had been granted by this Court's order dated March 5, 2020. Pursuant to this extension, the mandate of the arbitral tribunal was scheduled to expire on July 31, 2020.

4. Learned Counsel for the parties fairly state that there was a residual period available to the parties under the second extension referred to above, which was approximately 139 days when the deadlines under Section 29-A that had been extended for all by the Supreme Court, came to an end on February 28, 2022. Consequently, the parties agree that the time for completion of the arbitral proceedings

would have automatically stood extended until July 18, 2022.

5. This Application has been filed on November 23, 2023 i.e. nearly one year and four months after July 18, 2022. Learned Counsel for the Petitioner submits that the extension would be reasonable and that this Court ought to grant an extension as the parties were engaged in settlement discussions, which eventually failed. According to him, that led to a letter dated August 2, 2023 from the Respondent to the Petitioner calling upon the Petitioner to execute various documents referred to in the said letter. That letter was addressed to a law firm, which, it transpires, turned out to be a law firm no longer representing the Petitioner.

6. That letter was replied to by new lawyers for the Petitioner on August 23, 2023, denying various contentions of the Respondent and also alleging that the letter dated August 2, 2023 had essentially been aimed at stirring the pot, by copying all other acquirers of flats in the said building and to precipitate matter – this is a pointer from the correspondence that indicate that the actions of the parties was not consistent with those engaged in in settlement. The current application was filed three more months later, in November 2023.

7. We have heard Learned Counsel at significant length, perhaps not commensurate with the time necessary for this matter. It is seen from a detailed reading of the aforesaid two letters that these letters do not by themselves point to an inexorable conclusion that there were indeed settlement talks and that such talks could explain the delay in filing this application under Section 29-A of the Act. On the contrary, it is apparent that around that time the Respondent, was being pressured by various owners of apartments to execute documents under the Maharashtra Apartment Ownership Act, 1970 and the letter dated August 2, 2023 was motivated to deal with the pressure mounted on the Respondent by the flat purchasers. Therefore, although at first blush, the suggestion that the correspondence in August 2023 between the parties can be an indication of settlement discussions being alive, and the matter being pursued, it seems evidently plausible that the parties being smug in their respective positions, without moving this Court under Section 29-A for a period as long as nearly sixteen months. When the pressure mounted from the flat purchasers, the arbitration was felt necessary again.

8. In these circumstances, taking into account the fact that various pleadings have already been filed in the arbitration proceedings

and a lot of activity has taken place, I called upon the parties to point me to the pleadings in the Statement of Claim to get a sense of the reliefs sought in the arbitral proceedings. It is evident that in the arbitral proceedings, indeed various declaratory reliefs are sought including damages of approximately Rs.15 Crores. Since much activity has indeed been carried out by the Learned Sole Arbitrator, and he had been already given two extensions, in my opinion, it would be in the fitness of things, to extend of mandate of the arbitral tribunal for a further period of nine months from today i.e. until October 26, 2025 subject to the Petitioner paying costs to the Respondent in the sum of Rs. 2,50,000/- within a period of four weeks from today. If such costs are paid by the Petitioner, then the mandate of the arbitral tribunal shall stand extended, as directed above. If such costs are not paid by the Petitioner then no further reference would be required to be made to this Court and this Petition would stand disposed of without any extension having been granted.

9. With the aforesaid directions, this Application is *finally disposed of*.

10. All actions required to be taken pursuant to this order shall be taken upon receipt of a downloaded copy as available on this Court's website.

[SOMASEKHAR SUNDARESAN, J.]