



A. No.610 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.03.2025

CORAM

**THE HON'BLE Mr. JUSTICE ABDUL QUDDHOSE**

**Appln. No.610 of 2025**

M/s. Kotak Mahindra Bank Ltd.,  
Rep. by its Authorised Signatory

.. Applicant

vs.

1. M/s. Moniva Sarkar  
2. Mr.Muthuchharan Sundresh

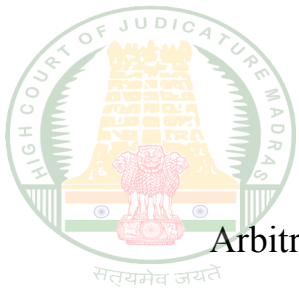
.. Respondents

|                 |                       |
|-----------------|-----------------------|
| For Applicant   | : Mr.N.S. Sivakumar   |
| For Respondents | : Mr. V. Ramana Reddy |

### **ORDER**

This application has been filed under Section 29A of the Arbitration & Conciliation Act, 1996 seeking for extension of time for the Arbitrator to pronounce the Arbitral Award.

2. It is to be noted that this is the first application filed by the applicant under Section 29A of the Arbitration and Conciliation Act, 1996, seeking for extension of time for the Arbitrator to pronounce the Arbitral Award. While deciding an application under Section 29A of the



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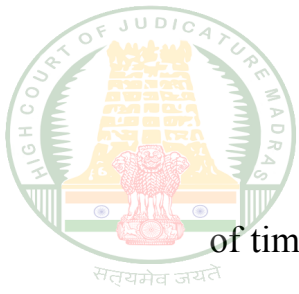
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Arbitration and Conciliation Act, the only consideration this Court will have to look into is whether the applicant has shown sufficient cause for seeking extension of time for the Arbitrator to pronounce the Arbitral Award.

3. The applicant bank is the petitioner / claimant and the 1<sup>st</sup> respondent is the sole respondent in the arbitration viz., Arb. Case No.14 of 2020. Initially, aggrieved by the Ex-parte Award, dated 04.01.2021, the respondent / borrower had filed a petition under Section 34 of the Arbitration and Conciliation Act, 1996 in Arb. O.P. (Com. Div.) No.84 of 2023 seeking to set aside the Arbitral Award. This Court by its order, dated 21.06.2023 set aside the said Arbitral Award, dated 04.01.2021, passed by an Arbitrator appointed unilaterally without the consent of the respondent / borrower and a new Arbitrator has been appointed, who is the 2<sup>nd</sup> respondent herein.

4. For the sake of convenience in the subsequent paragraphs, the applicant is referred to as “claimant-bank” and the 1<sup>st</sup> respondent is referred to as “borrower”.

5. In the affidavit filed in support of this application, the “claimant-bank” has given the following reasons for seeking extension



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of time for the Arbitrator to pronounce the Arbitral Award :-

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a) On receipt of the order passed by this Court under Section 34 of the Arbitration and Conciliation Act, setting aside the earlier Arbitral Award passed in favour of the “claimant-bank” on the ground of unilateral appointment of an Arbitrator, the Arbitrator appointed by this Court issued notice to the “claimant-bank” and the “borrower” for hearing on 14.08.2023.

b) The “claimant-bank” was directed to file claim statement on or before 04.09.2023.

c) On 04.09.2023, the learned counsel appearing for the respondent/borrower opposed the very Arbitral proceedings contending that the 1<sup>st</sup> respondent herein is not a borrower and her name has been impersonated as if loan was given to her by the “claimant-bank”.

e) The counsel appearing for the “claimant-bank” in the arbitration on 03.10.2023 sought adjournment before the Arbitrator to get details about the Proceedings pending before the Court at Chandigarh in the Execution Petition.

f) Acceding to the request of the learned counsel for the “claimant-



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bank”, the Arbitrator had adjourned the Proceedings to 06.11.2023. In

the meanwhile, another request was made by the learned counsel for the “claimant-bank” to the Arbitrator on 31.10.2023 seeking postponement of the hearing to some other date as according to the “claimant-bank”, the matter involves the plea of alleged fraud raised by the counsel for the borrower. The “claimant-bank” sought further time since details will have to be ascertained with regard to the allegations levelled by the “borrower” against the “claimant-bank”. Thereafter, the Arbitrator did not fix any date for the next hearing and the matter was adjourned.

g. The Mandate of the Arbitrator under Section 29A of the Arbitration and Conciliation Act got expired by that time. The counsel for the “borrower” before the Arbitrator had also addressed a mail to the learned counsel for the “claimant-bank”, attaching a Memo of the borrower and sought termination of arbitral proceedings on the ground that there is no sufficient cause or reason to prove that the 1<sup>st</sup> respondent borrowed money from the “claimant-bank”.

h. Before the Arbitrator, the “claimant-bank” was advised to get the certified copy of the evidence / depositions recorded before the



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Petition viz., E.P.No.345 of 2021 to check the veracity of the defence raised by the “borrower”. According to the “claimant-bank”, the said copy was applied and circulated to their Legal Department for scrutiny and they held Meetings at various levels and forwarded the same to the counsel appearing for the “claimant-bank” during the 1<sup>st</sup> week of the January 2024 with all original files.

i. The counsel for the “claimant-bank” after scrutiny of all evidence, prepared the claim statement and sent it for approval to the “claimant-bank”. On 31.01.2024, the “claimant-bank” sought further time before the Arbitrator through their E-mail and sought for the condonation of the delay in filing the claim statement. They requested the Arbitrator to fix the next date of hearing in the 2<sup>nd</sup> week of February 2024. The Arbitrator agreed to the request made by the learned counsel for the “claimant-bank” and fixed the date of next hearing in the arbitration to 17<sup>th</sup> March 2025. The claim statement was filed by the “claimant-bank” before the Arbitrator / 2<sup>nd</sup> respondent herein on 22.02.2024 after serving a copy of the same on the counsel appearing for the “borrower”.



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6. A counter has been filed in this application stating that the arbitral proceedings is a farce as the 1<sup>st</sup> respondent never borrowed any money from the “claimant-bank”. They have also stated that since the pleadings were not completed as per the prescribed period fixed under Section 25 of the Arbitration and Conciliation Act, the arbitral proceedings ought to have been terminated.

7. While deciding an application under Section 29A of the Arbitration and Conciliation Act, 1996, this Court will have to look into as to whether sufficient cause has been shown by the applicant seeking for extension of time for the Arbitrator to pronounce the Arbitral Award.

8. In the case on hand, as seen from the dates and events disclosed in the affidavit filed in support of this application, this Court is of the considered view that sufficient cause has been shown by the applicant / “claimant-bank” for seeking extension of time under Section 29A of the Arbitration and Conciliation Act, 1996. According to the “claimant-bank” only due to the fact that the “borrower” had raised allegation of fraud against the “claimant-bank”, there was a delay on the part of the



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applicant / “claimant-bank” to file their claim statement before the Arbitrator.

9. The learned counsel for the 1<sup>st</sup> respondent / “borrower”, relied upon Section 25 of the Arbitration and Conciliation Act and would submit that since the pleadings were not completed within the prescribed period as stipulated under Section 25 of the Arbitration and Conciliation Act, the arbitral proceedings stands terminated.

10. Admittedly, the Arbitrator has not terminated the proceedings under Section 25 of the Arbitration and Conciliation Act, 1996, as under the Section, the said Proceedings can be terminated only by the Arbitrator. However, if sufficient cause has been shown for the delay in filing the pleadings by the applicant / “claimant-bank”, extension of time at the discretion of the Arbitrator can be granted. When the arbitral proceedings has not been terminated by the Arbitrator, this Court in this application filed under Section 29A of the Arbitration and Conciliation Act, 1996 cannot terminate the arbitral proceedings.



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11. It is also to be noted that this application has been filed under

Section 29A of the Arbitration and Conciliation Act, 1996 for the 1<sup>st</sup> time by the applicant / “claimant-bank”. The applicant / “claimant-bank” has already filed their claim statement. The grievance of the 1<sup>st</sup> respondent / “borrower” as contended in the counter filed by her before this Court cannot be redressed in this application filed under Section 29A of the Arbitration and Conciliation Act, 1996. If at all, the grievances can be redressed only in the arbitral proceedings or in case, the 1<sup>st</sup> respondent / “borrower” suffers an arbitral award through an application filed under Section 34 of the Arbitration and Conciliation Act, 1996. Since sufficient cause has been shown for seeking extension of time, this Court is inclined to allow this application. Accordingly, this application is allowed as prayed for by extending the Mandate of the Arbitrator by another period of six months from the date of receipt of a copy of this order.

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Index: Yes/ No

Speaking order / Non speaking order

Neutral citation : Yes / No

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**ABDUL QUDDHOSE, J.**

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